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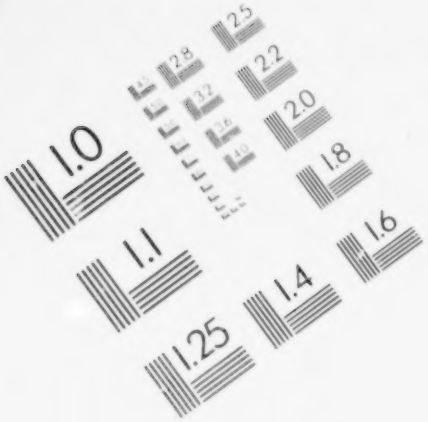

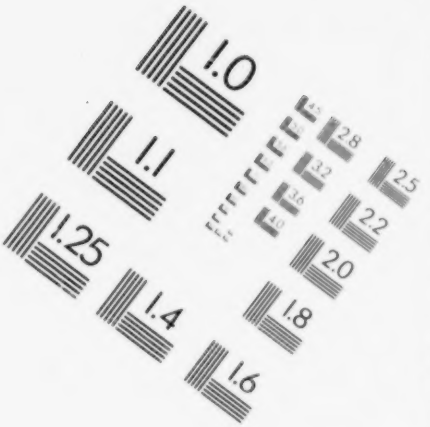

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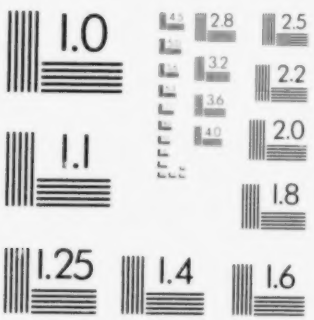

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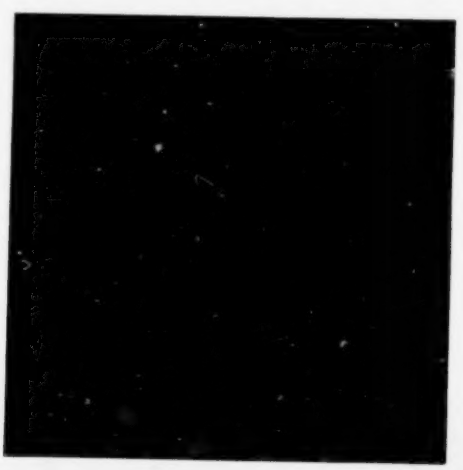

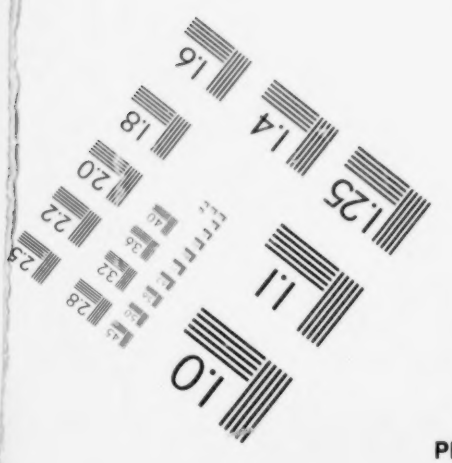

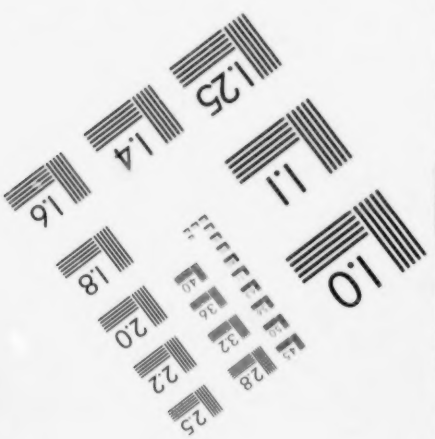

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United Nations E/C.12/2015/SR.1

Economic and Social Council

Distr.: General
25 February 2015

Original: English

Committee on Economic, Social and Cultural Rights

Fifty-fourth session

Summary record (partial)* of the first meeting

Held at the Palais Wilson, Geneva, on Monday, 23 February 2015, at 10 a.m.

Temporary Chairperson: Mr. Walker (Representative of the Secretary-General)
Chairperson: Mr. Sadi

Contents

Opening of the session

Solemn declaration by new members of the Committee

Election of the Chairperson and other officers of the Committee

Adoption of the agenda

Statements by NGOs

* No summary record was prepared for the rest of the meeting.

This record is subject to correction.

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

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The meeting was called to order at 10.10 a.m.

Opening of the session

1. **The Temporary Chairperson** (Director, Human Rights Treaties Division), on behalf of the Secretary-General, declared open the fifty-fourth session of the Committee on Economic, Social and Cultural Rights and welcomed Mr. Chen, Mr. De Schutter and Mr. Uprimny Yepes as new members of the Committee.

2. Reporting on recent events of interest to the Committee, he said that South Africa had become the 163rd State to ratify the Covenant. Eighteen States had already become parties to the Optional Protocol to the Covenant and several others had expressed the intention to do so. The jurisprudence that the Committee would develop through its consideration of individual communications under the Optional Protocol would contribute significantly to clarifying rights and providing further guidance on remedies. The four States parties that had ratified or acceded to the Optional Protocol in 2014 had undoubtedly been encouraged to do so by the activities in their countries of the Office of the United Nations High Commissioner for Human Rights (OHCHR). That work focused on Africa and Latin America and was continuing. The Office also collaborated closely with the Group of Friends of the Optional Protocol and the International NGO Coalition, both of which were working to promote ratification of the Optional Protocol. Furthermore, it had recently launched a database of jurisprudence (juris.ohchr.org).

3. Unfortunately, the current budget crisis was affecting all parts of the Office, including the Human Rights Treaties Division. In line with General Assembly resolution 68/268, the Office would concentrate on helping each Committee to reach the targets set in terms of lists of issues, concluding observations and communications, but would be less able to assist in other areas, such as the development of general comments. The Secretary-General intended to compile a biennial report on implementation of the resolution, reviewing the efforts made to reduce the backlog in the Office's work and harmonize working methods. The Committee was encouraged to continue considering ways of contributing to those goals, particularly in relation to the consultation process for developing general comments. The General Assembly had also requested treaty body Chairpersons to keep States parties updated on the application of the Addis Ababa Guidelines on the independence and impartiality of members of the human rights treaty bodies, and the Committee might wish to consider how it could do so.

4. In line with resolution 68/268, the treaty bodies would now be allocated a maximum of three languages for their meetings and documents, with exceptional provision for a fourth language when necessary. The limited resources that were available would be used to meet the additional language needs of all 10 treaty bodies and so moderation was called for. While the Division of Conference Services would endeavour to meet such exceptional needs, the Committee would need to inform it in advance of requirements for forthcoming sessions.

5. In September 2015, the General Assembly would adopt the Sustainable Development Goals. The Secretary-General had recently called for a universal human rights-based development agenda and the current draft texts for the Goals included references to economic, social and cultural, as well as civil and political, rights. The treaty body Chairpersons had adopted a joint statement on the post-2015 development agenda, urging Member States to maintain and strengthen the emphasis on human rights and calling for a technical review of the proposed Goals to ensure that they were aligned with the international treaties.

6. A second area that would be of interest in 2015 was the Social Protection Floors Initiative, described by the Secretary-General in a recent report to the Human Rights

Council, which made extensive reference to the Covenant and the work of the Committee. Social protection floors could help to ensure the enjoyment of minimum levels of economic, social and cultural rights, thereby reducing poverty and inequality.

Solemn declaration by new members of the Committee

7. *Mr. Chen, Mr. De Schutter and Mr. Uprimny Yepes made the solemn declaration provided for in rule 13 of the Committee's rules of procedure.*

Election of the Chairperson and other officers of the Committee

8. **The Temporary Chairperson**, on behalf of the Committee, expressed appreciation for the work of the outgoing Bureau, and for the excellent leadership of Mr. Kedzia in particular, and invited the Committee to elect a Chairperson, three Vice-Chairpersons and a Rapporteur from among its members, in accordance with rule 14 of its rules of procedure.

9. **Mr. Kedzia**, as outgoing Chairperson, said that the Asian group had not reached a consensus and so was proposing two candidates for the office of Chairperson, Mr. Sadi and Ms. Shin.

10. After a discussion in which **Mr. Abashidze**, **Mr. Kedzia** and **Mr. Schrijver** took part, the **Temporary Chairperson** suggested that the Committee should hold consultations in private.

The meeting was suspended at 10.35 a.m. and resumed at 11.05 a.m.

11. *Mr. Sadi was elected Chairperson by secret ballot.*

12. *Mr. Sadi took the Chair.*

13. **The Chairperson** invited nominations for the three offices of Vice-Chairperson.

14. **Mr. Kedzia** nominated Mr. Abashidze.

15. **Ms. Bras Gomes** nominated Mr. Mancisidor.

16. **Mr. Ribeiro Leão** said that he wished to put himself forward as a candidate.

17. *Mr. Abashidze, Mr. Mancisidor and Mr. Ribeiro Leão were elected Vice-Chairpersons by acclamation.*

18. **The Chairperson** invited nominations for the office of Rapporteur.

19. **Mr. Antangana** nominated Mr. Pillay.

20. *Mr. Pillay was elected Rapporteur by acclamation.*

21. **Ms. Shin** said that it was important for the Committee to work together and that the Chairperson would enjoy her full support during his leadership.

22. **The Chairperson** thanked Ms. Shin for her valuable contribution to the Committee and her work on a general comment on the right to sexual and reproductive health.

Adoption of the agenda

23. *The agenda was adopted.*

24. **The Chairperson**, in response to questions raised by Mr. Abashidze, said that his concerns would be addressed in due course and that the Committee would review its work allocation.

Statements by NGOs

25. **Ms. Lüst** (FIAN International) said that land distribution in Paraguay was unequal and that 1 per cent of the population owned 77 per cent of the country's arable land. Paraguay was home to tens of thousands of landless, small-scale farmers; some had never owned land, while others had been forcibly evicted from their land or had sold their plots due to poverty. Others had been forced to leave their plots due to the adverse effects of pesticides used in nearby soya plantations. The significant expansion of soya cultivation in Paraguay in recent decades was often associated with land conflicts, human rights abuses and expulsions, and had led small-scale farmers to migrate to cities and slums. Soya had become Paraguay's primary export, and demand for it continued to rise in Europe, where most people were unaware of its impact on rural populations and the environment.

26. FIAN International urged the Government of Paraguay to, inter alia, prohibit the use of pesticides, introduce agrarian reform, override land titles, introduce small-scale organic farming, provide health care to those in need, prohibit the cultivation of genetically modified soya on public land, tax soya exports and assess the potential effects of new soya seeds prior to admitting them.

27. **Mr. Ribeiro Leão** asked whether Ms. Lüst could provide the Committee with specific examples of small-scale farmers who had been adversely affected by genetically modified soya cultivation.

28. **Ms. Lüst** said that FIAN International worked with a Paraguayan farmer named Gerónimo Arévalo who had starred in a documentary called "Raising resistance". All the land in Mr. Arévalo's community had been purchased by Brazilian corporations, which used it to cultivate soya. The herbicides used by the corporations decimated the crops of local small-scale farmers and exposed their families to toxic chemicals. As a result, many of the farmers had been forced to leave the community and had ended up living in slums in the cities.

29. **The Chairperson** asked Ms. Lüst whether she considered that the unequal distribution of land was the root cause of poverty in Paraguay. Were there other key factors, such as corruption, or was the land issue the crux of the problem?

30. **Ms. Lüst** said that the land issue was the main problem and that Paraguayan farmers needed land titles. A better distribution of land among local small-scale farmers was essential to combating poverty and should be a priority.

The discussion covered in the summary record ended at noon.

United Nations E/C.12/2015/SR.2

Economic and Social Council

Distr.: General
27 February 2015

Original: English

Committee on Economic, Social and Cultural Rights

Fifty-fourth session

Summary record of the 2nd meeting

Held at the Palais Wilson, Geneva, on Monday, 23 February 2015, at 3 p.m.

Chairperson: Mr. Sadi

Contents

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant

Fourth periodic report of Paraguay

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The meeting was called to order at 3 p.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant

Fourth periodic report of Paraguay (E/C.12/PRY/4; E/C.12/PRY/Q/4 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Paraguay took places at the Committee table.*

2. **Mr. Molinas Cárdenas** (Paraguay), introducing the fourth periodic report of Paraguay (E/C.12/PRY/4), said that, as part of its efforts to strengthen the institutional capacity of the State, the Government had launched an innovative tool known as the Recommendation Monitoring System (SIMORE) to ensure transparency in the management of and to guarantee access to public information regarding the country's level of compliance with international recommendations made to it and to identify the challenges to be overcome to achieve the full realization of human rights in Paraguay. The current Government, which had been in power for just over a year and a half, was committed to ensuring the continuity of rights-based policies and programmes aimed at improving the quality of life of the population. Since income disparities needed to be addressed, the Government had declared poverty reduction a national priority and had adopted the National Development Plan 2030, which covered the multiple dimensions of poverty. Other efforts to combat poverty included the National Plan for Reducing Extreme Poverty – Creating Opportunities, the aim of which was to boost the income of vulnerable and impoverished families and to increase their access to social services. It was noteworthy that the country's extreme poverty rate, which had stood at around 18 per cent in 2011, had since dropped to 10 per cent.

3. Initiatives to benefit older persons included a pension programme for older persons in a situation of poverty, which had provided assistance to around 140,000 persons in 2014. In 2015, the Government planned to increase its aid to vulnerable sectors of the population and to build new hospitals and clinics. In an attempt to reduce the high levels of maternal and neonatal mortality, the Government had launched a national campaign which, in the six months following its roll-out in 2014, had succeeded in reducing maternal and neonatal mortality by 38 per cent and 18 per cent respectively.

4. The main challenge facing the Government in education was to improve the quality of the instruction while expanding the coverage of educational services. Although the State invested 4.1 per cent of gross domestic product (GDP) in the education sector, it recognized that a larger investment was needed. Therefore, as of 2014, US$ 322 million from the National Fund for Public Investment and Development (FONACIDE) would be allocated to education.

5. As to child protection, the Government had adopted a series of commitments to enhancing the size and impact of investments with the aim of placing matters concerning children and adolescents high on its agenda. It also had adopted a programme aimed at progressively eradicating child labour through prevention, intervention and protection measures.

6. There were currently 117,150 registered indigenous persons in Paraguay, accounting for 1.8 per cent of the total population. The Constitution guaranteed the right of indigenous peoples to preserve and develop their ethnic identity and to apply their systems of political, social, economic, cultural and religious organization without restriction. The law on the return of ancestral lands to the Sawhoyamaxa indigenous community had been promulgated in 2014. The title to 12,312 hectares of land was now to be transferred to the Yakye Axa

indigenous community, and 21 years after its acquisition by the State, the title to 27,000 hectares of land would revert to the Ayoreo Totobiegosode tribe. The first workshop on consultation and free, prior and informed consent had taken place in August 2014, culminating in a proposal for a legal framework for consultations with the indigenous peoples of Paraguay. Other actions to benefit indigenous peoples included the signature of a memorandum of understanding on food and nutritional security and the consideration by the National Congress of a bill on the health of indigenous peoples. Learning materials had been devised and distributed in 15 indigenous languages, and two training centres had been set up for young people from indigenous backgrounds.

7. The Government had developed and launched a number of national programmes to promote equality between men and women. In 2012, the national body responsible for gender equality had been elevated to the ministerial level. Gender gaps tended to be most prevalent in rural areas. The participation of women in elected and decision-making posts was increasing slowly. Gender-based violence was a persistent problem: the Government's efforts to curb it focused on promoting the economic empowerment of women and their participation in political life.

8. The Ministry of Labour, Employment and Social Welfare had set up around 20 employment offices throughout the country with the aim of providing workers with training that was in step with the prevailing conditions and requirements in the workplace and in the labour market. A law on youth employment had been promulgated in 2013.

9. Decree No. 633/2010 guaranteed access to justice and afforded protection to persons who were in a vulnerable situation on account of poverty, gender, being a part of an indigenous community or disability, and to persons deprived of their liberty.

10. Despite the progress made, the Government was aware that there were still many obstacles to the effective implementation of the Covenant in Paraguay, and it remained committed to overcoming them.

11. **Mr. Ribeiro Leão** (Country Rapporteur) asked whether the National Development Plan 2030 and the National Human Rights Plan had been prepared through a consultation process and, if so, whether civil society and representatives of indigenous communities had participated. He requested information on the human and financial resources allocated to build the capacity of the Ombudsman's Office and on the programmes and plans in place to combat corruption.

12. He requested an update on the status of the bill obliging the State to respect the right of indigenous peoples to be consulted on all development projects that could affect their way of life, territory or environment, which was now before the National Congress. He would be interested to know of any measures taken by the State party to give effect to the rulings handed down by the Inter-American Court of Human Rights concerning the ancestral lands of indigenous peoples.

13. He asked why the anti-discrimination bill, which had been submitted to Congress over seven years ago, had finally been rejected. He requested additional information on the National Plan for Equal Opportunities for Women and Men 2008–2017 and on the measures in place to combat discrimination against women. What had been done to curb the high unemployment rate and to generate employment opportunities for young people? He also wished to know whether the State party planned to set a minimum wage for all workers; what steps it had taken to promote trade union membership; and how it dealt with strikes. Noting that a disproportionally large number of families had no access to social assistance, he asked what actions were planned to remedy that situation.

14. **Mr. Kerdoun** said that the State party was to be commended on its progress in demarcating and returning ancestral lands, promoting consultation and seeking the free,

prior and informed consent of indigenous peoples in matters concerning them. However, there was evidence to suggest that the rights of indigenous peoples were often not guaranteed in practice. He requested information on the practical measures taken by the State party to guarantee their right to water, education and health care. He asked when the State party intended to supply deeds to the 45 per cent of members of such groups who could not prove ownership of their land. What legal guarantees or other forms of assistance were available to those who were facing eviction? He requested additional information on the assistance provided by the National Centre for Indigenous Affairs in the registration of landownership and on Paraguay's cooperation with neighbouring countries on issues affecting indigenous peoples.

15. **Ms. Shin**, referring to reports that around 40 per cent of Paraguayan children were not registered at birth, asked what were the obstacles to such registration. Recalling that the absence of a comprehensive anti-discrimination law could deprive victims of legal protection, she enquired as to the reasons behind the rejection of the anti-discrimination bill by the Senate. Noting that the Ombudsman's Office was also the national human rights institution, she asked why the post of Ombudsman had remained vacant since 2008 and whether the State party planned to appoint a new Ombudsman.

16. **Mr. Schrijver** asked what proportion of the State party's gross domestic product and of the State budget was allocated to the education, health and social services sectors. Noting that Paraguay was a middle-income country, he asked why its tax collection rate was so low; what was the average tax burden per capita; and how it planned to raise the tax collection rate. Lastly, he asked whether there were plans to draft a new anti-discrimination bill following the rejection of the previous one, so as to give substance to the guarantees of non-discrimination contained in the Constitution.

17. **Mr. Kedzia** said the fact that the international instruments ratified by Paraguay prevailed over national laws had prompted the Committee to request specific examples of judicial decisions in which economic, social and cultural rights had been directly enforced. Given that the content of the website cited in the State party's written replies was in Spanish only, he requested the delegation to provide a brief overview of the judicial decisions in question. He asked whether the Paraguayan courts systematically referred to the Covenant and to the Committee's general comments when handing down rulings in cases involving the violation of economic, social and cultural rights. The Committee would also like to receive additional information on the functioning of the Recommendation Monitoring System (SIMORE), with a view to sharing best practices with other States parties to the Covenant.

18. Noting that Paraguay had resigned from the International Coordinating Committee of National Human Rights Institutions following a decision to downgrade the status of its national human rights institution, he asked whether the State party planned to rejoin it in the future. Reports had been received that politicians and interested parties often tried to exert undue influence on judges and prosecutors; that there was a high turnover of judges on account of pressure exerted by the Government; and that corruption was rife in the judiciary. He requested the delegation to comment on those reports and on how the independence of judges and prosecutors was guaranteed. Lastly, he asked how many individuals had been prosecuted and punished for having exerted undue influence over a judge or prosecutor.

19. **Ms. Bras Gomes** suggested that establishing a ministry for indigenous peoples might be a good way to tackle the problems faced by those communities. She wished to know whether the rights set out in article 2, paragraph 2, of the Covenant and in the Committee's general comment No. 20 would be covered in the bill against all forms of discrimination that the Government planned to submit to the National Congress in late 2015. Given that the Recommendation Monitoring System had been recognized as a good

practice, she asked whether it played a substantive role in advising the Government, for example, on discrimination and the rights of indigenous peoples.

20. **Mr. Mancisidor** said that, in 2011, the Special Rapporteur on extreme poverty and human rights had described the system of taxation in Paraguay as regressive. He therefore wished to know whether and how the tax system had changed since 2011 and requested examples of new taxes that had generated resources for social policy and enhancing the enjoyment of economic, social and cultural rights.

21. **Mr. Uprimny Yepes** asked for clarification of the legal status of the Covenant and whether it provided direct protection to citizens. Were citizens able to appeal to a judge for the protection of Covenant rights? He wished to know whether the rights of indigenous peoples to autonomy and to prior, free and informed consent were recognized, particularly with regard to government projects, and whether they could appeal to an independent authority to guarantee those rights. He would appreciate an update on the recommendation of the Inter-American Court of Human Rights that Paraguay should adopt a system for land claims that guaranteed the rights of indigenous peoples to their property, land and culture. In 2011, the Committee on the Elimination of Racial Discrimination had expressed concern at the failure of Paraguay to act on the recommendations of the Truth, Justice and Reparation Commission on ways of countering racial discrimination. He asked whether policies had been introduced to implement those recommendations and, if not, for an explanation of why not.

22. He expressed perplexity at the poor quality of the State party's report and noted that the percentage of the population living in extreme poverty, as shown in table 11 of the core document (HRI/CORE/PRY/2010), indicated that much higher numbers of women lived in extreme poverty compared to men. If that information was correct, it could be viewed as evidence of gender-based discrimination.

23. **The Chairperson** said that, while there had been improvements in a variety of the areas covered by economic, social and cultural rights, he wondered to what extent they had been motivated by the need for compliance with the Covenant and whether the Covenant was viewed as meaningful and relevant to government policy in Paraguay.

24. **Mr. Schrijver** suggested that the procedure for registering trade unions and their members might be considered an obstacle to the enjoyment of the right to form trade unions. He enquired as to whether there were other such obstacles and requested more information about restrictions on the right to strike.

25. **Ms. Bras Gomes**, noting the concerns about conditions for domestic workers reported by the Special Rapporteur on extreme poverty and human rights, requested information on the progress of the bill to update the Labour Code to harmonize domestic workers' conditions with those of others. The delegation should clarify whether domestic workers were covered by social security and to which benefits they were entitled, and whether the "domestic personnel" referred to in the data provided by the State party were the same as domestic workers. With regard to independent and self-employed workers, she asked whether the two terms were interchangeable and requested information on social security and compulsory insurance for such workers. Lastly, and in general, were there any penalties for employers that did not pay social security contributions for their workers?

26. **Mr. Martynov**, pointing out that the quotas introduced for employment of persons with disabilities in the public sector had not been fully implemented, asked why that was the case, what could be done to overcome that problem and whether the Government intended to extend the quota system to the private sector. He requested more information on the tax incentives offered to private companies for the employment of persons with disabilities and asked whether they were effective. Clarification was needed on whether discrimination on the grounds of disability was prohibited, particularly with regard to

labour rights and the reasonable accommodation of persons with disabilities in the workplace. The delegation should indicate whether disaggregated data on employment rights and persons with disabilities was available, as the Committee had requested during its consideration of the State party's previous report. He asked whether the minimum wage was adequate to cover the cost of living. Annual figures on the number of labour inspections conducted and their results should be provided.

27. **Mr. Ribeiro Leão** asked whether the Government had devised policies to tackle the gender gap in average income, which was much higher for men than for women. He wished to know whether Paraguay intended to allow same-sex couples to enjoy the same benefits and protection, such as pensions, as opposite-sex couples.

The meeting was suspended at 4.20 p.m. and resumed at 4.45 p.m.

28. **Mr. Molinas Cárdenas** (Paraguay) said that the standing and size of his delegation reflected the importance accorded by the Government to the Covenant. Many of the measures that had been adopted were consistent with the Covenant and the recommendations of the Committee. It had taken a year to prepare the National Development Plan, which had been drafted on the basis of consultations with different groups, including indigenous peoples, and had been adopted by decree in December 2014.

29. **Ms. Abdo** (Paraguay) said that the National Human Rights Plan, which addressed culturally sensitive matters such as sexual and reproductive health and the rights of the LGBTI community, had eventually been adopted by decree. A framework had been adopted to allow the compliance of the various ministries with the plan to be monitored. A report on implementation would be prepared in 2015 and the initial results discussed with those responsible in order to identify and remedy any deficiencies.

30. **Ms. Ferreira** (Paraguay) said that the parliamentary committee on human rights had drawn up a list of candidates for the position of Ombudsman, but that some candidates had removed their names from the list.

31. **Mr. Richer** (Paraguay) said that the anti-discrimination bill had been submitted to Congress in 2007 and had been reviewed by the Government on numerous occasions. The fact that the Senate had debated the bill, most recently in 2014, was a major step forward, since attempts had been made to reduce it to a question of same-sex marriage and there had been resistance from certain sectors of society, notably the church. A new draft of the bill, planned for submission to the Senate in July 2015, touched on a number of issues raised by the Committee and adhered to the requirements set out in international human rights treaties. Support from the Executive for the bill, which would have an impact on labour policy, education and the fight against poverty, would help to ensure its adoption in 2015.

32. **Mr. Servín** (Paraguay) said that according to the most recent census figures, more than two thirds of the country's nearly 500 indigenous communities had legal title to their land. Since its ratification of the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), Paraguay had been committed to ensuring that indigenous peoples were removed from their lands only with their free and informed consent. Progress had been made towards the formulation of a presidential decree requiring that indigenous communities should be consulted on any public initiative that might affect them.

33. Considerable progress had also been made towards compliance with international judgements against Paraguay in cases involving the Sawhoyamaxa, Yakye Axa and Xákmok Kásek indigenous communities. The National Institute for Indigenous Affairs had budgeted US$ 8 million to compensate the owners of land that was soon to be expropriated and awarded to indigenous communities. Whether all planned expropriations could be carried out depended on funding. Lastly, efforts were under way to ensure that title to some

27,000 hectares of land acquired by the Paraguayan State 20 years earlier was finally transferred to the land's traditional inhabitants, the Ayoreo Totobiegosode indigenous people of the Chaco region.

34. **Ms. Romero Meza** (Paraguay) said that the Recommendation Monitoring System was the outcome of inter-agency cooperation. One of the system's objectives was to strengthen the State's capacity for producing reports on the human rights situation by making information on public agencies' efforts to adopt international human rights recommendations more broadly accessible.

35. **Ms. Montiel** (Paraguay) said that in Paraguay, international human rights treaties had been accorded what was nearly constitutional status. An attempt to withdraw from a treaty or to lower its rank in the domestic legal system required a constitutional amendment. In addition, individuals could appeal directly to the courts for protection in the event of a violation of the rights to which they were entitled under international human rights treaties, including the Covenant.

36. **Mr. Ramírez** (Paraguay) said that the independence of the judiciary was a foundational principle of the Paraguayan Constitution. Judges were to be free from pressure exercised either by other courts or by the parties to any given case. Supreme Court justices could be removed from office only for crimes or misconduct. That did not mean, however, that judicial officials enjoyed impunity. Indeed, in some 50 cases, penalties had been imposed on judicial officials for misconduct or acts of corruption. All persons who felt that their rights had been violated as a result of judicial misconduct could file a complaint with an office created just for that purpose, and plans were being developed to make the complaint forms available in all the country's languages, including Guaraní, the second most widely spoken language in Paraguay.

37. **Ms. García** (Paraguay) said that the current National Plan on Equal Opportunities for Women and Men was the third to date. It had been formulated and put in place on the basis of an evaluation of the two earlier plans and had facilitated the incorporation of a gender perspective into the current National Development Plan. Very recently, for the preparation of the national budget, the Ministry of Finance had adopted gender-based parameters. Other strategies for the advancement of equal opportunity included creating relevant institutions and offices, establishing Secretariats for Women in each of the country's 17 departments and about half of its cities, pushing for legislative changes, developing programmes for the economic empowerment of women, encouraging women to run for public office and providing care for vulnerable women and female victims of trafficking. Lastly, although the recently created Ministry of Women's Affairs had the smallest budget of any of the government ministries, it played an important coordinating role.

38. **Mr. De Schutter** asked when the results of the Paraguayan Government's evaluation of its programmes to combat poverty and extreme poverty would be available. He also requested information on the Paraguayan authorities' understanding of the reasons for which more than 20 per cent of the population, according to figures from the Food and Agriculture Organization of the United Nations, still suffered from malnutrition. Comment on what had caused the apparent failure of a programme begun 10 years earlier to reduce hunger and malnutrition would likewise be welcome. Regarding the increase in soybean production since the early 1990s, which had made Paraguay the world's fourth leading exporter, he wished to know how the authorities viewed the impact on the right to food of displaced smallholders; how landowners without title to the land they occupied were protected from evictions; how the shift towards monocultures affected rural inequality; and what compensation, if any, small farmers received when their land and water were affected by herbicides sprayed from crop-dusters.

39. **Mr. Pillay** asked what steps the State party had taken to set up a unified land registry and to undertake comprehensive agrarian reform that would bring the peasantry into the country's economy and result in a fair distribution of land. What was being done to address the housing deficit and ensure that low-income groups, including indigenous peoples, had access to adequate accommodation? He wished to know whether an indigenous community evicted from its ancestral lands in 2012 had now received compensation. In that connection, information would be welcome on whether the State party intended to enact legislation consistent with the guidelines set out in the Committee's general comment No. 7 on forced evictions.

40. **Ms. Shin** said that although the amendment to the Criminal Code regarding domestic violence was a step forward, it was still not entirely satisfactory, as the violence must be habitual to be punishable, and the victim must cohabit with the perpetrator. She asked whether the State party intended to address those limitations. In view of the country's relatively high rates of maternal mortality, she also asked whether there were any plans to liberalize abortion. More generally, she wished to know what was being done to ensure that women's sexual and reproductive rights were protected.

41. **Ms. Ravenberg** asked how the Government ensured that the large percentage of children whose births were unregistered had the right to the highest attainable standard of physical and mental health and what was being done to address frequent shortages of medicines, medical equipment and ambulances. In view of reports that primary education was often inaccessible, in particular to children with disabilities or to indigenous persons, she wished to know what efforts the Government was making to ensure respect for the basic right to schooling.

42. **Mr. Mancisidor** noted that less than one quarter of schools for indigenous children had separate-sex toilets and asked whether the Paraguayan authorities were aware of the possibly negative effects such a situation could have on girls' willingness to attend school. Regarding the language of instruction, he asked whether it was possible to complete high school in Guaraní and whether any institutions of higher learning offered classes taught entirely in Guaraní. Information on the situation with other minority languages, in particular in primary schools, would also be welcome.

43. **Mr. Kedzia** asked what steps had been taken to ensure that people from disadvantaged groups had access to the Internet.

44. **Mr. Ribeiro Leão** asked whether the Government had taken any measures in response to reports of debt servitude on estates in the Chaco region and requested information about any related investigations or convictions. Access to water had improved considerably, but rural areas were not as well served as urban areas. What measures had the Government adopted to improve access to water and to basic sanitation, in particular for indigenous communities?

The meeting rose at 6 p.m.

United Nations E/C.12/2015/SR.3

Economic and Social Council

Distr.: General
26 February 2015

Original: English

Committee on Economic, Social and Cultural Rights
Fifty-fourth session

Summary record of the 3rd meeting
Held at the Palais Wilson, Geneva, on Tuesday, 24 February 2015, at 10 a.m.

Chairperson: Mr. Sadi

Contents

Consideration of reports:

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Fourth periodic report of Paraguay (continued)

This record is subject to correction.

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The meeting was called to order at 10 a.m.

Consideration of reports:

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Fourth periodic report of Paraguay (continued) (E/C.12/PRY/4; E/C.12/PRY/Q/4 and Add.1; HRI/CORE/PRY/2010)

1. *At the invitation of the Chairperson, the delegation of Paraguay took places at the Committee table.*

2. **Ms. Ferreira** (Paraguay) said that while significant progress had been made with respect to the rights of persons with disabilities, there was still room for improvement. Measures had been taken to promote the employment of persons with disabilities and to protect them from discrimination. Under the law, all government institutions had to ensure that at least 5 per cent of their workforce consisted of persons with disabilities. Moreover, legislation established incentives for the employment of persons with disabilities in the private sector, including tax cuts for enterprises which employed such persons. Institutions were audited twice a year to ensure that persons with disabilities were being employed; while such audits showed that most institutions complied with legislation, those that did not were given a six-month period to make the necessary changes.

3. With regard to violence against children and adolescents, a bill prohibiting cruel and humiliating treatment of minors had been drafted and discussed in public hearings. The text would be formally debated in two months' time.

4. **Mr. Cáceres** (Paraguay) said that the Ministry of Labour, Employment and Social Security had been established to provide protection to workers and to fill historical gaps. Referring to concerns about trade union registration, he said that Paraguay was a signatory to the International Labour Organization (ILO) Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and that the rules relating to trade unions were in conformity with the Convention and sought to codify trade unions. Most trade unions welcomed the initiative taken by the Government and realized that registration was not intended to undermine their activities. Nevertheless, the Ministry was aware that it had to improve the registration process and address certain obstacles, which included the reluctance of some unions to provide the Government with lists of their members. Article 98 of the Paraguayan Constitution guaranteed the right to strike as long as exercise of that right did not jeopardize basic services. Those services had been defined in a separate law and were different for public servants and persons working in the private sector.

5. In response to questions regarding the minimum wage, he said that the Labour Code provided for a minimum wage, but the concept had first been introduced in the 1960s and required updating, as it assumed that men were the sole breadwinners. The Ministry was concerned about the inadequacy of the minimum wage, but most persons who earned the minimum wage worked in the informal sector. Paraguay had been a party to the ILO Domestic Workers Convention, 2011 (No. 189) since May 2013, and Congress had begun discussing the remuneration of such workers with a view to establishing a minimum wage.

6. In response to a question raised at the previous meeting, he said that, in the past, labour inspections had been riddled with corruption and that labour inspectors had been poorly trained. The Ministry had tried to improve labour inspection by, inter alia, establishing a labour police force.

7. Legislation was in place to combat discrimination against persons with HIV/AIDS. As to the issue of forced labour, it seemed to be prevalent in specific areas, such as on sugar

plantations, in quarries in northern Paraguay and among indigenous populations in the Paraguayan Chaco. In the latter case, the victims were usually indigenous persons in debt bondage who worked for ranchers. While labour inspections could be carried out in plantations and quarries, it was harder to conduct inspections in the Chaco, which was a large, thinly populated region where the State was not well represented. The Ministry was nevertheless trying to tackle the problem, inter alia by meeting with trade union and indigenous leaders in the region to collect data, and was working with independent consultants and the National Institute of Indigenous Affairs (INDI).

8. **Mr. Richer** (Paraguay) said that domestic work was deeply rooted in Paraguay and that the rights of such workers had often been violated in the past. The Government was therefore working on a bill on domestic work that provided for eight-hour working days, health coverage and pensions. The bill had already been adopted by the Senate, but still contained serious shortcomings, as the proposed wage was 60 per cent of the minimum wage. The bill would be introduced in the Chamber of Deputies, and the Government hoped that the deputies, trade unions and civil society would fight to ensure that the new legislation ended such discrimination.

9. **Ms. Fernández** (Paraguay) said that discrimination in the provision of health services was prohibited by law. The relevant legislation ensured, inter alia, that women who had undergone abortions would receive appropriate care in the event of complications arising from their abortions. All health services and records were strictly confidential.

10. The maternal mortality rate had been significantly reduced over the past decade, although there were still variations between rural and urban areas. Various steps had been taken to prevent maternal and neonatal deaths, which were down 38 and 18 per cent respectively, compared to 2013. Paraguay was now measles-free and would soon be free of malaria.

11. **Mr. Molinas Cárdenas** (Paraguay) said that the 2014 health budget was the largest in the past 14 years.

12. **Ms. Fernández** (Paraguay) said that parents were encouraged to register their children as soon as they were born. Certain hospitals would issue birth certificates and identification for babies, and there were plans to expand the number of hospitals that offered such services. In response to concerns that had been raised about malnutrition, she said that the campaign to provide milk to malnourished children under the age of 5 had been very successful, particularly in the western part of the country.

13. **Mr. Molinas Cárdenas** (Paraguay) said that according to data from the ILO impact assessment of child labour in Paraguay, 75 per cent of child workers had stopped working, 14 per cent continued to work and 11 per cent were being withdrawn from work. In addition, studies showed that the family grant programme had had very positive effects on school attendance, vaccinations and health care for children. Various measures to improve nutrition, access to education and health had also been very successful. The issue of poverty was multidimensional, and the only way families could escape poverty was to become autonomous and generate their own income. His Government was therefore developing programmes to assist small-scale farmers and microenterprises and improve access to credit.

14. **Mr. Codas** (Paraguay) said that his country was trying to tackle the issue of extreme poverty and had implemented innovative programmes in that regard. The social programme *Abrazo* ("Embrace") sought, inter alia, to improve access to education and health care for poor children. The National Secretariat for Children and Adolescents had supported a bill that sought to strengthen such programmes by identifying reliable sources of funding for their implementation. Finally, Paraguay had developed a programme to address the issue of street children with addictions.

15. Mr. Servín (Paraguay) said that responses to the 2002 census from persons of indigenous origin concerning how they made a living had indicated the existence of forced labour on ranches, particularly in the Paraguayan Chaco. A participatory study of the issue was planned for 2015, with a questionnaire designed to produce accurate qualitative and quantitative information on debt servitude as referred to in the above-mentioned ILO report.

16. As to the right to food, indigenous groups did not necessarily have the same viewpoint as other members of the community; any work on the issue needed to involve their participation. A small-scale project run by INDI and supported by the Food and Agriculture Organization of the United Nations (FAO) was aimed at revitalizing ancestral farming practices, especially native seed stock, the project represented a potentially very important source of knowledge. Water was abundant in many parts of Paraguay, but more than 200 indigenous, Mennonite and other communities in the Paraguayan Chaco were being supplied with drinking water. Initiatives included infrastructure repairs, an aqueduct and rooftop tanks for water storage.

17. Because 93 per cent of indigenous communities lived in rural areas, a mobile civil registry had been created to meet their needs for birth registration and the issuance of national and indigenous identity cards.

18. New data from December 2014 showed that 11.3 per cent of the indigenous population had some auditory, visual or motor disability. The figures for serious physical and psychological disabilities would be available in March or April 2015.

19. INDI had no record of any eviction of an indigenous community in 2012. The two educational centres built in the centre and south of the country provided training for 20,000 indigenous young persons between the ages of 14 and 25. Work carried out over the previous decade had culminated in the draft Indigenous Health Act, which was currently before parliament.

20. **Ms. Zarza** (Paraguay) said that the 4.4 per cent of gross domestic product (GDP) invested in education represented 12 per cent of public spending. Priority in infrastructure improvement was given to rural schools, the investment being funded from a mixture of public resources, European Union funding and conversion of public debt. New data showed a significant rise in the proportion of indigenous children attending school (67 per cent). A plurilingual curriculum had been developed in consultation with indigenous communities and mother-tongue educational materials had been introduced in 2013, with appropriate staff training. A new Inclusive Education Act had been adopted in 2013 and 20 per cent of children with disabilities were now enrolled in school.

21. Under new legislation, national and local government resources funded the provision of free school meals and milk, although currently only 30 per cent of those entitled through means testing actually took advantage of that benefit.

22. **Ms. Weiss de Bogarín** (Paraguay) said that, pursuant to the 2010 Language Act, Guaraní was used in early-years education, with children becoming functionally bilingual by the time they reached year 6. Guaraní was a mandatory subject in all schools, but none used it exclusively. Teacher training and university courses were also available in Guaraní. Efforts were being devoted to the documentation and revitalization of other indigenous languages.

23. **Ms. Samaniego Acosta** (Paraguay) said that the amendments to article 229 of the Criminal Code, promulgated in December 2014, had created a specific offence of domestic violence that did not necessarily involve systematic violence or physical or psychological harm and did not require the victim to have been cohabiting with the perpetrator.

24. **Ms. García** (Paraguay) said that work was continuing on the expansion of the definition of domestic violence as an offence. Record-keeping and institutional linkages

needed improvement. It had been found that 18.5 per cent of persons had experienced violence, particularly psychological violence, within the family. The error in table 11 of the core document (HRI/CORE/PRY/2010) had been noted and would be rectified before the submission of the next periodic report to a treaty body. Current projects aimed at the economic, social and political empowerment of women living in extreme poverty were producing results and were to be extended to other parts of the country. Paraguayan Women's Day, instituted in 1867 by the First Assembly of American Women, was celebrated on 24 February. Although much had been achieved for women in Paraguay since the adoption of the Beijing Platform for Action, much remained to be done. It was hoped that the post-2015 agenda would bring a new paradigm of gender strategies and guidelines, as well as more funding.

25. **Mr. Ramírez** (Paraguay) said that statistical data were available on offences relating to family violence under both the Criminal Code and the Domestic Violence Act (No. 1600). Of the cases included in the database for the period 2012–2014, 6 per cent were related to domestic violence. Specific data on cases tried would be supplied to the Committee.

26. **Mr. Guzmán** (Paraguay) said that special provision had been made for the employment of persons with disabilities in the public sector in 2015; it was hoped to raise their number to 5 per cent of staff.

27. **Mr. Molinas Cárdenas** (Paraguay), noting that some of the Committee members' questions had not been answered, undertook to provide the relevant information within 48 hours.

28. **The Chairperson** thanked the delegation for its efforts to answer the Committee's questions and took note of the undertaking to provide additional information. He invited members of the Committee to raise any further questions.

29. **Ms. Shin**, welcoming the abolition of the cohabitation requirement in the legislation on domestic violence, asked whether the definition of beating would be revised to qualify it as violence. Would the Criminal Code be revised so as to avoid prosecuting women who had had abortions after being raped? She called for better guidelines, campaigns and education on the subject, particularly for medical staff. Welcoming the decline in the maternal mortality rate, she pointed out that the figure of 96.3 maternal deaths per 100,000 live births was still very high. The registration of hospital births was to be welcomed, but statistics on the proportion of births, especially to indigenous women, that took place at home would offer some perspective. The mobile registration unit was a development to be encouraged. She asked what percentage of schools had separate toilet facilities for girls and boys.

30. **Ms. Bras Gomes** noted that none of her questions on social security had been answered. She had asked for details on the voluntary social security scheme, in particular: who paid into it and how much; whether there was a mandatory social security scheme for self-employed workers; and what the Government was doing to combat evasion of social security contributions. Referring to the International Social Security Association website, she said that, despite Paraguay having 11 flagship programmes, access to non-contributory programmes was still very low. Was there any discussion at national level of the introduction of a social protection floor?

31. **Mr. Uprimny Yepes** said he would welcome information on tax revenue, public spending, and economic and social rights. Despite economic growth in recent years, there was little tax revenue, perhaps because of the regressive taxation system. In a country where 45 per cent of the population lived in the countryside, rural poverty and inequality were particularly serious, with a lower GINI coefficient in rural areas. Soybean cultivation could be compounding the problem. He asked for information on the social security

benefits available to partners of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons and on anti-discrimination policy. He also wished to know what was being done to comply with the recommendation of the Inter-American Court of Human Rights on land titles for indigenous communities. Noting that the core document (HRI/CORE/PRY/2010), which gave figures for 2009–2010, mentioned a major decline in vaccination rates, he was surprised to see that the periodic report showed an improvement and asked for further details.

32. **Mr. Martynov** asked about the Government's agrarian reform strategy, given that so much land was owned by so few. The periodic report stated that 60 per cent of indigenous communities owned their land. What was the current figure and were those communities completely satisfied with their land entitlement in respect of their ancestral lands? He would also welcome information on landownership by poor non-indigenous rural communities.

33. **Mr. Ribeiro Leão** (Country Rapporteur) asked for more information on the fight against corruption, which was vital in combating both rural and urban poverty.

34. **Mr. De Schutter** requested details on the agrarian reform and soybean cultivation. The Comprehensive Food and Nutrition Programme (PANI) had been under way since 2005 but more than 20 per cent of the population still suffered from malnutrition. Could the lack of effectiveness be attributed to poor funding, resulting perhaps from the regressive taxation system? And had the authorities considered how PANI might be converted, for instance, into a legally binding programme?

35. **Mr. Codas** (Paraguay) said that public awareness of the problem of corruption had increased in recent years. The Supreme Court, further to its conviction of members of a local government in a corruption case brought by the public prosecutor, had issued a decision setting forth the right of access to public information. The judiciary had accordingly published information on the remuneration of its staff. Legislation had been introduced, based on the principle of active transparency and in compliance with international treaties on corruption, setting out the obligation of all public officials to declare their earnings and ensuring access to public information. In addition, under the National Secretariat against Corruption all State departments were required to establish a complaints unit that included provision for witness protection. The Attorney General's Office included lawyers specializing in financial corruption. Since 2009 there had been 37 convictions for corruption and over US$ 1 million had been recovered as a result of prosecutions for corruption.

36. **Mr. Molinas Cárdenas** (Paraguay) added that under current measures to combat corruption it was expected that very large amounts would be recovered. An official from the Secretariat for Social Action had recently been charged with corruption.

37. **Ms. García** (Paraguay) said that amendments had been made to legislation on domestic violence, removing the requirement that violent acts should be recurrent in order to be defined as an offence and brought before the courts.

38. **Mr. Cáceres** (Paraguay) said that efforts had been undertaken to rectify the structural weakness of the Social Security Institute, which entailed close cooperation between the Institute, the Ministry of Labour and other relevant offices in order to carry out cross-referencing of databases relating to enterprises and plan joint labour inspections. Employees not covered by social security were registered by the Ministry of Labour. The Social Security Institute imposed sanctions on employers found evading social security contributions; the fines imposed for such an offence would be harmonized.

39. The economically active population accounted for 64 per cent of the total population, and contributions to the main social security regime had significantly increased in recent

years, in line with the growth of the economically active population. The largest proportion of social security contributions was made by the private sector (36 per cent). Contributions were not compulsory for self-employed persons. The reform of the social security system had led to the creation of the present Ministry of Labour, which had been granted specific powers concerning social security. Lastly, a bill had been drafted providing for the establishment of an oversight mechanism operated by the Central Bank and the Ministry of Labour with a view to ensuring proper investments in social security funds and preventing the transfer of funds to foreign banks.

40. **Mr. Molinas Cárdenas** (Paraguay) said that the Social Affairs Cabinet had drawn up minimum standards for areas such as health, education and civil registers. They would be implemented in the relevant institutions with a view to removing families from poverty.

41. **Ms. Zarza** (Paraguay) said that, according to data from 2012, 98 per cent of the 8,000 schools in Paraguay had separate toilets for boys and girls. The schools without separate facilities were attended by children from indigenous communities in rural areas. In fact, 37 per cent of all schools for indigenous children did not have separate facilities. The construction of separate facilities, financed by the Ministry of Education, in all educational establishments where they were currently lacking was expected to be completed in 2015.

42. **Mr. Martínez** (Paraguay) said that the main obstacles to the proper upkeep of civil registers were insufficient financial resources, complicated administrative procedures and lack of training of officials. Initiatives had been taken to improve the upkeep of registers and included granting the Directorate-General of the Civil Registry institutional status and setting up a training centre. In addition, a department had been established to encourage registration of indigenous groups. It was hoped that the mobile registration campaigns, which had successfully reached vulnerable groups but had been discontinued owing to lack of funds, would be reintroduced in the near future.

43. **Mr. Molinas Cárdenas** (Paraguay) said that measures to protect vulnerable groups from extreme poverty were in place and included food donations. Through the *Abrazo* programme and other initiatives, around 240,000 families had benefited and been kept from extreme poverty.

44. **Mr. Richer** (Paraguay) said that the cultivation of soya in the country had resulted in the loss of small-scale family farms, an increase in hunger, the migration of rural communities to urban areas and irreparable environmental damage. Even where legislation on land cultivation and environmental protection was adequate, its enforcement was ineffective. A bill focusing on the right to food and protection for persons working in agriculture had been prepared and would be presented to parliament shortly.

45. Abortion remained a sensitive issue in the State party; its possible legalization had never been addressed by any branch of government. Nevertheless, a debate on abortion had been sparked in civil society, which could prove to be the first step towards its becoming a legislative issue.

46. **Mr. Molinas Cárdenas** (Paraguay) said that within the framework of the fight against poverty, various programmes had been developed to increase financial and human resources and to improve institutional mandates. While social spending remained low owing to poor tax revenues, an Act on personal income-related tax had been adopted which covered an increasing number of citizens. As a result, tax revenues were rising. Further work was required regarding land taxes.

47. **Ms. Fernández** (Paraguay) said that the figures cited by the Committee regarding malnutrition were not reliable. The State party was working with FAO to improve data collection in that area. Programmes to alleviate hunger had been established, including the PANI, which reached large numbers of children, provided special assistance to children

under 5 and pregnant women, and had been carried out primarily in the west of the country. The *Abrazo* programme provided support to enable indigenous communities to grow crops and become self-sufficient. A countrywide programme of vaccinations against the human papilloma virus had been launched and rubella had been eliminated.

48. **Mr. González Bibolini** (Paraguay) said it was important to disassociate the problem of soya cultivation from the flow of Brazilian immigrants into the country. The State party welcomed immigrants and was open to foreign investment.

49. **Mr. Codas** (Paraguay) said that a comprehensive care programme for street children (PAINAC) had been established to provide immediate protection for children and young people and to promote the recovery and rehabilitation of children dependent on toxic substances.

50. **Ms. Ferreira** (Paraguay) said that a pilot programme had been initiated for the construction of community homes for persons with disabilities. It was hoped that by the end of 2015 those homes would be completed.

51. **Mr. Molinas Cárdenas** (Paraguay) said that his delegation deeply regretted that the time allocated for replies to the Committee had been inadequate. Various institutions had invested money and resources to prepare for the dialogue with the Committee, and for that reason it might be useful to revise the reporting methodology employed. He thanked the Committee for its concern and interest. The rights enshrined in the Covenant were of paramount importance to his Government, and the Committee's recommendations would be taken into account in the formulation of policies and programmes.

52. **Mr. Richer** (Paraguay) said that the time allocated to questions and replies had not been equally distributed.

53. **Mr. Ribeiro Leão** thanked the delegation for the open and constructive dialogue. The fact that all branches of government were represented in the delegation was noteworthy. It was true that there had not been sufficient time and the delegation's comments would be taken into consideration.

54. **The Chairperson** expressed his thanks for the delegation's candidness about the pressure of time affecting the quality of the dialogue. Regrettably, the reporting procedure had been shortened due to financial constraints. In its future replies, the State party should refer to the specific provisions of the Covenant that corresponded with new measures described. It might also wish to mention any human rights education initiatives undertaken. The delegation's engagement with the Committee served as a model for other countries.

55. **Mr. Molinas Cárdenas** (Paraguay) said that the human rights training provided in the State party had been commended by the representative of the United Nations High Commissioner for Human Rights in Paraguay. A publication on human rights education outlining best practice in Paraguay would be issued in due course.

The meeting rose at 1 p.m.

United Nations E/C.12/2015/SR.4

Economic and Social Council

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3 March 2015

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Committee on Economic, Social and Cultural Rights
Fifty-fourth session

Summary record of the 4th meeting
Held at the Palais Wilson, Geneva, on Tuesday, 24 February 2015, at 3 p.m.

Chairperson: Mr. Sadi

Contents

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Combined second and third periodic reports of Tajikistan (continued)

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The meeting was called to order at 3 p.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Combined second and third periodic reports of Tajikistan (continued)
(E/C.12/TJK/2-3; E/C.12/TJK/Q/2-3 and Add.1; HRI/CORE/1/Add.128)

1. *At the invitation of the Chairperson, the delegation of Tajikistan took places at the Committee table.*

2. **Mr. Shohmorud** (Tajikistan) said that, as part of his Government's active cooperation with civil society, on 16 February 2015, it had held a meeting with civil society representatives to discuss the combined second and third periodic reports on the implementation of the Covenant. The discussion had touched on a variety of issues and a number of proposals had been put forward for improvements in the economic and social spheres.

3. The freedom of economic and entrepreneurial activity, equal rights to and legal protection of all forms of property, including private property, the right to work, choice of profession and the rights to housing, health care, social protection and education were guaranteed under the Constitution of Tajikistan. Each person had the right to freely participate in the cultural life of society and scientific and technical work and to enjoy the benefits of progress in those fields. Despite the negative impact of regional and international political and economic processes, his country had maintained a high pace of economic growth from 2006 to 2014. The level of poverty was falling steadily: it had stood at 32 per cent in 2014. Factors that had helped to reduce poverty included good economic growth, remittances from migrants abroad and increased social expenditure.

4. In 2014, State spending in the social and economic sectors had been devoted to security, energy resources and construction and infrastructure projects. Under the National Development Strategy for the period up to 2015, the priorities were to improve access to basic social services and raise living standards. A National Development Council, established as a consultative body chaired by the President of Tajikistan, included representatives from the world of international finance, donor groups, the business community and civil society.

5. State budgetary resources had increased four-fold over the previous seven years. For 2015, the social sphere had been allocated 50 per cent of the State budget, facilitating the payment of public sector wages, pensions and benefits. The minimum and maximum levels of pensions would be raised by an average of 20 per cent.

6. His country accorded full labour rights, including the right to work, the choice of profession and social protection from unemployment. Tajikistan was an exporter of labour: more than 670,000 citizens travelled annually to perform seasonal work abroad, mostly in the Russian Federation. The Government's desire to protect the rights and interests of its citizens who were working abroad had led it to adopt relevant policies and strategies. Tajikistan had ratified the main international conventions on labour migration and had signed intergovernmental and interregional agreements regulating procedures for Tajik labour migrants. The Government created 100,000 new jobs in different sectors of the economy each year in an effort to reduce the scale of labour migration. Other government initiatives focused on continuous professional development, interest-free loans for small and medium-sized enterprises, remunerated community service and unemployment benefits.

7. Men and women were guaranteed equality in the enjoyment of all economic, social and cultural rights. Tajikistan had been one of the first States in the region to accede to the International Labour Organization Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value and had ratified the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. Citizens had the right to form trade unions and could join and resign from them freely. Trade unions were independent, and 44 were currently registered in Tajikistan.

8. Special attention was paid to the family, which was the basis of society. The Family Code had been amended in 2010 to raise the age of marriage from 17 to 18 years of age, in order to support girls' education and their preparation for independent living. Performing an underage marriage or marrying a person who was underage incurred criminal liability. An ombudsman for children would be established in 2015, which had been designated the "Year of the Family".

9. The Constitution of Tajikistan provided for the right to health care. Citizens were entitled to free medical care in State health-care institutions. Private services could be used on a fee-paying basis. A programme to combat the HIV/AIDS epidemic had been introduced for the period from 2011 to 2015. There were 240 HIV testing points and more than 350 specialists available to provide voluntary consultations and testing. In addition, there were units for the provision of services intended to reduce the risk of infection among vulnerable populations, including intravenous drug users, sex workers and former prisoners. Special attention was also paid to tuberculosis. A treatment programme that conformed to World Health Organization recommendations had been introduced in all regions in 2014. Free tuberculosis testing was available to all and a programme to reduce tuberculosis had been operating in prisons since 2007. Measures were being taken to reduce child mortality, and maternal and child mortality had been halved between 2000 and 2014.

10. The right to education was a constitutional right; secondary education was provided free of charge in State institutions. School enrolment levels had reached 99 per cent for primary and secondary education, while preschool institutions provided care for more than 100,000 children. More than 1,000 educational institutions had been built from 2010 to 2014, and the number of higher education institutes had almost tripled. Female students made up 59 per cent of all students in higher education. State spending on education increased each year and would total almost 3 billion somoni in 2015.

11. **Mr. Kedzia** (Country Rapporteur), commending the State party on the extensive information provided in the report and the written replies to the Committee's list of issues, asked whether reports to human rights treaty bodies were generally prepared through a participatory process that included civil society. The core document for Tajikistan dated from 2004 and should be updated when convenient.

12. He wished to know why a national human rights plan — which had proven to be an important human rights tool in many countries — had not been developed. More information would be appreciated on the establishment of a national human rights institution in accordance with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (the Paris Principles). The Office of the Commissioner for Human Rights had "B" status, according to the International Coordinating Committee of National Human Rights Institutions. No information had been received on its placement within State structures, how it was financed and how the Commissioner was nominated and elected. Information on the Commissioner's engagement in the protection of economic, social and cultural rights, in particular with regard to victims of violations of those rights, would be useful.

13. He asked why Tajikistan was ranked 152 of 174 countries in the Transparency International Corruption Perceptions Index. The delegation should also comment on

findings indicating that corruption in the public sector was systemic, an assessment that was reflected in the views of the majority of the population. The relationship between a culture of petty corruption and the phenomenon of grand corruption involving high-ranking public officials should be elucidated.

14. Despite the examples of court judgements that referred to the Covenant provided in the written replies, alternative sources had been sceptical about the willingness of judges to invoke international norms, possibly due to a lack of training. The written replies made reference to a strikingly limited amount of time dedicated to training on the Covenant, and he wished to know whether the Government intended to improve the situation. Was the State party taking or planning to take steps to ratify the Optional Protocol to the Covenant?

15. **Mr. De Schutter** asked whether the Social Protection for Persons with Disabilities Act clearly prohibited discrimination against persons with disabilities and whether it required reasonable accommodation to be made to help integrate persons with disabilities. The delegation was requested to comment on the fact that, in Tajikistan, persons with disabilities were classified in ways that did not comply with the International Classification of Functioning, Disability and Health, which led to exclusion from employment; on information alleging that many public and private buildings in Tajikistan were not accessible to persons with disabilities; and on whether the quota for the recruitment of persons with disabilities was fully implemented.

16. Information before the Committee indicated that the Act on State guarantees of equal rights and opportunities for men and women, adopted in 2005, did not in fact provide sufficient guarantees in that domain. He asked for information on the protection of women from indirect discrimination and on positive action to benefit women, neither of which was provided for explicitly in the legislation. Expressing concern at the decline in the employment of women between 2004 and 2009, which indicated a need to take positive action to improve women's presence in the labour market and to combat stereotypes, he said that a further concern was the overrepresentation of women in the agricultural sector, in which informal employment and limited access to social protection were prevalent.

17. **Mr. Schrijver** asked what was being done to raise awareness about the Covenant among professionals and the public and how the Covenant was included in training programmes for the judiciary, lawyers and civil servants. He asked whether the State party's definition of anti-discrimination covered discrimination on the basis of sexual orientation, and requested clarification in general regarding anti-discrimination in law and in practice.

18. **Ms. Bras Gomes** said that Tajikistan lacked comprehensive legislation covering all the grounds for discrimination included in the Covenant, and there appeared to be no legal definition of discrimination. The rich diversity of Tajikistan could be a source of problems, and she therefore asked whether the Government had considered the need for programmes integrating measures for different groups into a single framework or national plan. Given concerns about transparency in the use of official development assistance and donor funds, she wished to know whether the Interdepartmental Commission on Foreign Debt was required to provide information to the public, and if so, how it met that requirement.

19. **Ms. Shin,** noting that since Tajikistan had gained independence, the Tajik language had become essential to day-to-day life in the country, said that she wished to know how the State party ensured that persons from minority groups could learn to speak Tajik while maintaining their own culture and language, particularly outside formal educational institutions. Since gender stereotyping needed to be addressed to ensure success in other measures, such as increasing women's achievements in education and employment, she asked how the State party was tackling the problems of gender roles and stereotyping.

20. **Mr. Pillay** asked for clarification of whether there had been problems with the status of the Covenant in Tajikistan and requested further information on its invocation in the courts. The written replies indicated that corruption had mainly been tackled in terms of the material harm caused to the State, rather than the criminal conviction of offenders.

21. **Mr. Abashidze** asked for the Government's forecast on migration figures, given that Tajikistan shared a border with Afghanistan, where the situation was likely to worsen with the withdrawal of foreign troops. He wished to know whether the Government had requested or received technical assistance from international organizations, particularly the Office of the United Nations High Commissioner for Refugees, and requested information on migration legislation and plans for incoming refugees.

22. **Mr. Uprimny Yepes** asked whether judges were able to seek to protect a person from discrimination on the basis of his or her sexual orientation, and if so, whether the delegation could provide examples of cases in which that had happened.

23. Although it was understood that the State party faced certain economic limits to its activities, the Special Rapporteur on the right to health had indicated that health care spending in Tajikistan was extremely low, even when compared to countries at a similar level of development. He asked why more effort was not being made to furnish resources in support of the right to health, as recommended by the Committee in its previous concluding observations. He asked for information on legal provisions whose effect was that NGOs and other associations suffered disproportionate interference in their activities and found it difficult to access foreign funding.

24. **Mr. Kedzia** said he would appreciate comment on reports that, because of court costs and legal fees, people from disadvantaged groups had only limited access to effective remedies in the event of violations of their rights.

25. **Mr. Ribeiro Leão** asked whether Tajikistan had any plans to offer free legal aid, including to members of disadvantaged groups, and whether efforts to promote employment had had any effect on the realization by Tajik citizens of their right to gain their living by work freely chosen or accepted.

26. **Ms. Shin** said that, as she understood it, women in the State party were still barred from employment in professions in which conditions were considered harmful. She asked whether conditions considered harmful to women might not also be considered harmful to men; whether such prohibitions did not perpetuate gender stereotypes; and why many professions were off limits to women. She also understood that the retirement age was lower for women than for men and asked the delegation to explain the reason why.

27. **Ms. Bras Gomes** asked how the State party was dealing with changing migration patterns, including large increases in the number of women leaving the country. She requested information on any measures taken to address recent increases in the number of emigrants returning to Tajikistan as a result of deportation or the economic slowdown in the Russian Federation. What support was provided to the families of those who left the country and those who returned? Under a system currently being developed, pensions would depend heavily on employee contributions. Women, however, were less likely to be in paid employment, and even when they were, they generally earned less than men. She therefore wondered whether the Government had taken any steps to address what was highly likely to be a widening gap between the incomes of male and female pensioners. Lastly, she asked how frequently social welfare payments were revised upwards.

28. **Mr. Martynov** requested clarification of the Government's intentions regarding ratification of the Convention on the Rights of Persons with Disabilities. He asked whether there was any data on the numbers of Tajiks who had returned from abroad in the wake of the economic downturn in the Russian Federation and on the impact of the downturn on

financial inflows to Tajikistan, remittances in particular. He also wished to know what share of the country's total economy was accounted for by the informal sector and whether its labour inspectors had the authority to close down companies found to be in breach of the country's labour laws.

The meeting was suspended at 4.15 p.m. and resumed at 4.20 p.m.

29. **Mr. Shohmurod** (Tajikistan) said that Tajikistan had not yet ratified the Convention on the Rights of Persons with Disabilities but that efforts were under way to make it possible to do so in the near future. Although it was true that Tajikistan did not have a law specifically on non-discrimination, discrimination was addressed in the country's Constitution and covered by a number of its laws. In response to the question about the country's readiness to deal with the withdrawal of foreign troops from Afghanistan, he said that Tajikistan, in concert with coalition forces, was developing a plan to handle any resulting humanitarian emergencies, including the possible arrival of large numbers of Afghan refugees.

30. By 2016, the country should be in a position to pass a law on the provision of free legal aid, which had been the subject of a recent presidential address to parliament. Consultations were under way on a draft amendment to the laws regulating NGOs, in particular as they pertained to their international sources of funding. Information about access to possible sources of such funding was freely available to the public.

31. **Mr. Ashurov** (Tajikistan) said that in Tajikistan all interested ministries and agencies took part in the drafting of the reports to be submitted to international human rights treaty bodies. After consultations with international specialists and NGOs, the reports were considered by an inter-agency commission responsible for oversight of the country's international human rights commitments and revised accordingly. The replies to the list of issues were produced in very similar fashion. Preparing reports afforded an opportunity to identify potential problems, such as any legislation that needed to be amended.

32. The Supreme Court had established a mechanism by which the provisions of international treaties could be applied in domestic law, and the courts in general often referred to provisions of the Covenant in their rulings. The Constitutional Court had done so when it had examined the constitutionality of recent legislation on the right to divorce and on the right to a pension. Starting with the first universal periodic review in 2011, and for each review thereafter, the Tajik authorities had prepared a national action plan to implement the recommendations of the Human Rights Council. The current plan included information on the Government's analysis of the possibility of acceding to the Convention on the Rights of Persons with Disabilities, many of the provisions of which were already compatible with the country's laws and regulations.

33. Despite considerable recent efforts — more than 5,000 cases of alleged corruption had been investigated by the courts in the period 2009–2014 — corruption was still a major concern, including in law enforcement agencies and the military. The President himself had attended a recent meeting of the State Committee on National Security at which the causes of corruption had been addressed and measures to combat it had been adopted. Lastly, subjects related to the Covenant had been included in the programme for training judges, and there was an eight-hour required course on international human rights obligations.

34. **Mr. Shohmurod** (Tajikistan) said that, to combat corruption, the Tajik authorities had been working to implement specific recommendations made by the Organisation for Economic Co-operation and Development.

35. **Ms. Hasanova** (Tajikistan) said that the country's statistics agency published annual statistical indicators on the advancement of women in Tajikistan. The number of small farms owned by women had increased by more than 20 per cent, a broadly similar

percentage of women had been elected to the upper house of parliament and women were increasingly likely to become entrepreneurs, often with government support in the form of microcredit. Girls were also encouraged to participate more fully in school life, and the numbers of girls studying had increased. A growing trend towards gender parity in primary and middle schools was encouraging.

36. Although a large-scale survey in June 2009 had shown that the numbers of men in employment were much greater than the numbers of women, it had been conducted well before the harvest, when the rural women of Tajikistan, a largely agrarian country, were not working in the fields. When the population was surveyed in September, a much larger percentage of women was found to be in employment. The statistics agency intended to carry out such surveys more often, but they were expensive. In 2014, the gap between women's wages and men's had narrowed yet again, as pay in the service sector, which was dominated by women, was rising faster than in other sectors.

37. **Mr. Shohmurod** (Tajikistan) said that although prohibiting women from taking certain jobs could indeed perpetuate stereotypes, government policy and programmes were focused on empowering women and girls and encouraging them to become more active in Tajik society.

38. **Ms. Tagoeva** (Tajikistan) said that the Tajik Constitution prohibited discrimination against persons with disabilities; other protections afforded to such persons could be found in the Tax Code and the Labour Code. Following the establishment of a quota system, several thousand persons with disabilities had found work, and more than 500 had enrolled in institutions of higher learning. The hope was that those students would be able to find paid employment once they graduated; the Ministry of Labour had launched campaigns to raise awareness of the possibility of employing persons with disabilities.

39. Measures adopted for the advancement of women and girls included the development of a targeted vocational training programme and the provision of microcredit to women and low-income families. Labour inspectors did not have the authority to shut down companies or worksites that were in violation of labour laws: such cases had to be referred to the courts. In response to the question on migrants returning from the Russian Federation, she noted that migration in Tajikistan had always been highly seasonal. Efforts were being made to create jobs in the country, so that Tajik citizens, in particular women, could find employment there. As a result of the falling rouble, however, the number of returning migrants had increased slightly. Bilateral agreements with the Russian Federation dealt with such issues as the validity of work permits and the registration of migrant workers with the authorities. The Tajik Government had also put forward a cross-border pension proposal that had recently been submitted to the Russian authorities.

40. **Ms. Hasanova** (Tajikistan) said that in January 2014, remittances, including funds from minor international transactions, had been only slightly less than in January 2013. Migrant workers had access to special accounts that enabled them to make deposits abroad at no extra charge.

41. **Ms. Tagoeva** (Tajikistan) said that the Government had just developed a programme to increase employment in the formal economy and to deal with the issue of migration. As part of the programme, a plan to counteract the effects of the crisis in the Russian Federation had been launched. The overarching aim was to provide jobs for Tajiks in Tajikistan.

42. **Mr. Alizoda** (Tajikistan), recalling that the Office of the Commissioner for Human Rights had been accorded "B" status by the International Coordinating Committee of National Human Rights Institutions, said that the Government had set up a working group to draft the amendments necessary to strengthen that institution, thereby giving effect to the recommendations on that subject made to Tajikistan. The working group was also

examining the possibility of appointing an ombudsman for children. Of the 3,200 complaints received by the Office of the Commissioner for Human Rights, around 50 per cent concerned infringements of economic, social and cultural rights. The vast majority of those complaints had been resolved to the satisfaction of the complainants, who had been granted the appropriate remedies.

43. **Mr. Mirboboev** (Tajikistan) said that, while Tajikistan was home to over 100 ethnic groups, the official language of the country was Tajik and persons from all ethnic groups were required to learn it. The Government had taken steps to ensure that all persons from other ethnic groups had access to Tajik language instruction. Schools catered to the needs of students for whom Tajik was not their first language through the provision of specially designed textbooks and specially trained teachers. Tajik language instruction was also provided to adults, including business leaders and professionals working in the commercial sector. Russian was recognized by the Constitution as a language of communication.

44. **Mr. Ribeiro Leão** asked whether the National Development Strategy contained targets for poverty reduction and whether the State party had adopted a general strategy to combat poverty.

45. **Mr. Pillay** asked what measures the State party had taken to deal with the current housing shortage and to guarantee persons from disadvantaged backgrounds access to social housing. He asked how the State party ensured that individuals and families who had been forcibly evicted from their homes had access to temporary accommodation and were resettled in areas with job opportunities and the necessary amenities. He also asked whether an official survey had been conducted on the extent and causes of homelessness in Tajikistan and whether shelters were available to homeless persons.

46. **Ms. Shin** asked whether the State party intended to introduce a universal health insurance system; what proportion of men and women routinely used some form of contraception; and whether abortion was used as a form of birth control. Noting that the high rate of maternal and infant mortality in the State party could be partly attributed to factors such as inadequate housing and poor diet, she asked what measures the State party had taken to address those problems with a view to reducing the number of preventable maternal and infant deaths.

47. **Mr. De Schutter** asked what steps the State party had taken to deinstitutionalize children with mental and physical disabilities and to place them in alternative care settings and in mainstream schools.

48. **Mr. Dasgupta**, noting that Tajikistan was a transit and destination country for drug trafficking from Afghanistan, asked to what extent illegal drugs affected the health of the Tajik population and contributed to the spread of HIV/AIDS in the country.

49. **Mr. Atangana** asked what proportion of the 1,600 complaints of violence against women received had given rise to criminal penalties as opposed to administrative penalties. He also wished to know whether the State party's domestic legislation contained specific provisions to combat domestic violence. If so, had they been invoked to convict perpetrators of that offence and were they dissuasive enough to prevent convicted perpetrators from reoffending?

50. **Mr. Schrijver** asked what measures the Government had taken to ensure respect for and to promote the cultural rights of the diverse cultural and socioeconomic groups living in the country and whether their views and wishes concerning the way in which they exercised their cultural rights were taken into account.

51. **Mr. Uprimny Yepes**, noting that the current deficiencies in the State party's basic health-care services could be attributed to the misallocation of resources to secondary and tertiary services rather than to where they were needed most, asked how the State party

planned to remedy that situation. He enquired as to whether the increased rate of HIV infection was linked to the increased use of injectable drugs in the State party; whether it had adopted a policy to combat the use of such drugs; and whether their consumption constituted a criminal offence.

52. **Mr. Kedzia**, noting that there were reportedly 200,000 children in Tajikistan who engaged in some form of work and did not attend school, asked how the State party planned to remedy that situation. The Committee had received reports that around 50 per cent of the population suffered from malnutrition and that drug trafficking accounted for between 30 and 50 per cent of the Tajik economy. He requested the delegation to comment on the veracity of those reports.

53. **Mr. Kerdoun** said that the measures taken to curb absenteeism and the high dropout rate in schools appeared to have been ineffective and that the State party needed to step up its efforts in that area. He enquired as to the obstacles that had rendered those measures ineffective and asked how the State party planned to reduce the high dropout rate among girls, students living in rural areas and students belonging to ethnic minorities. Noting that teachers in public schools were often unqualified and that families who could afford to do so sent their children to private schools, he asked how the State party planned to improve the quality of the education provided in public schools and to ensure that all teachers were properly qualified. He also wished to know of the steps taken by the State party to ensure that all children in urban and rural areas had access to preschool education.

54. **Mr. Mancisidor** said that, given the apparent gender disparity in access to primary and secondary education in the State party, the Committee would welcome disaggregated data on the primary and secondary school attendance rates for boys and girls so as to have a clearer overview of the situation. If girls' access to education was somehow limited, he would be interested to know how the State party planned to remedy that situation.

55. **Mr. Chen** asked how the State party ensured that all ethnic and language groups living in Tajikistan enjoyed equal access to education. Noting that textbooks on human rights were published in Russian only, he asked whether the State party planned to make them available in other languages.

56. **Mr. Kedzia** enquired as to the impact of the global financial crisis on the school system in Tajikistan and, in particular, on tertiary level education. He requested the delegation to comment on the reasons behind the low completion rate of basic education among girls and students belonging to disadvantaged groups and on what appeared to be a revival of traditional stereotypes on the role of women in society, which could restrict their access to education. He commended the State party on its efforts to provide Internet access across the country but would be interested to know whether disadvantaged and marginalized groups enjoyed equal access to that service.

57. **Ms. Bobohojieva** (Tajikistan) said that the Government viewed the health sector as a priority, and the proportion of the State budget allocated to it was increased on a yearly basis.

58. **Mr. Ashurov** (Tajikistan), referring to the situation of refugees, said that Tajik legislation contained provisions that were in line with those of the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees. Many refugees either returned home or settled in third countries such as Canada; those who remained in Tajikistan had sought the extension of their refugee status. The Government had set up a working group to devise a national action plan to deal with the refugee situation. On the border with Afghanistan, areas had been identified with a view to erecting refugee camps if required. A citizenship bill that referenced the provisions of the Convention relating to the Status of Refugees was currently being examined and would soon be brought before parliament.

59. **Ms. Hasanova** (Tajikistan) said that the retirement age for men and women was 62 and 58 respectively. Most persons drawing a pension began to do so once they had reached retirement age: some retirees also received invalidity pensions. The population's average age was 25 and the active population accounted for just under 50 per cent of the total. However, it should be noted that between 11 and 12 per cent of the active population were in full-time education and many migrants working in Tajikistan did not pay into a pension fund. Given that the number of pensioners far outnumbered the number of persons working, it was difficult to guarantee them a sufficient pension.

60. **Ms. Tagoeva** (Tajikistan) said that a reform of the pension system was under way. The law on pensions guaranteed working citizens a minimum State pension which the Government intended to raise, taking into account the minimum wage, which was to be raised in 2015, and the daily subsistence level. Male and female pensioners who had worked for more than 25 and 20 years, respectively, were entitled to the minimum State pension, while persons who had not worked that long or who could not work were entitled to a social pension. The Government had adopted a series of measures aimed at facilitating the integration of migrant workers upon their return to their home country, had amended domestic labour laws and had adopted rules and regulations governing career services for migrant workers returning home. The national employment programme laid down the procedures for accrediting migrant workers and for providing them with training and microcredit to promote entrepreneurship in their home country.

61. **Mr. Shohmurod** (Tajikistan) said that Tajikistan lacked the necessary resources to create the required number of attractive employment opportunities. The Government needed to do more to improve access to energy in rural areas, as employment activities were often curtailed by the limited availability of electricity in those areas.

62. **Ms. Hasanova** (Tajikistan) said that the results of the National Development Strategy had already been analysed. The Government had adopted a range of measures aimed at improving the general well-being of the population, including measures to combat poverty, and most of those measures had now been implemented. Economic growth and increased funding had helped to reduce extreme poverty. Rural areas continued to be disproportionately affected by poverty, however. Surveys on household expenditure had shown that spending on non-food items had increased, which indicated that the living standards of the population had improved.

63. **The Chairperson** asked to what extent those responsible for devising the National Development Strategy and the various strategies and measures to combat poverty had drawn on the provisions of the Covenant. He requested examples of court rulings in which the Covenant had been expressly mentioned.

The meeting rose at 6 p.m.

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Committee on Economic, Social and Cultural Rights
Fifty-fourth session

Summary record of the fifth meeting
Held at the Palais Wilson, Geneva, on Wednesday, 25 February 2015, at 10 a.m.

Chairperson: Mr. Sadi

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Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Second and third periodic reports of Tajikistan (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Section, room E.5108, Palais des Nations, Geneva.

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The meeting was called to order at 10 a.m.

Consideration of reports (*continued*)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Second and third periodic reports of Tajikistan (continued) (E/C.12/TJK/2-3; E/C.12/TJK/Q/2-3 and Add.1; HRI/CORE/1/Add.128)

1. *At the invitation of the Chairperson, the delegation of Tajikistan took places at the Committee table.*

2. **Mr. Shohmurod** (Tajikistan), responding to questions put by Committee members during the previous meeting about the National Development Plan and the Poverty Reduction Strategy, said that governance reform, transparency, accountability, combating corruption, and the development of the private sector and capacity-building were all priorities in the country's development, as was improving social services for the poor. New long and medium-term strategies were currently being developed using a new methodology, the aim being to reduce the poverty level to 20 per cent by 2020.

3. **Ms. Hasanova** (Tajikistan) said that, although the first two phases of the Poverty Reduction Strategy had halved the poverty level to 32 per cent, it was still somewhat higher in the regions than in urban areas. A review had been conducted using focus groups, at national level to consider policy and at regional level to consider implementation. The forthcoming third phase would concentrate on improving living standards, together with all other relevant issues, such as improved governance, e-governance, improved transparency and accountability, and the use of a "one-stop shop" system for payments. That could only be done with the involvement of civil society. Other areas emphasized would be macroeconomic development, improving the investment climate, encouraging business, special economic areas, greater integration into the world economy, and sustainable economic development – particularly in rural areas through agricultural and village development. Priorities in the social sector would include education, public health, water, environmental issues and tourism. Gender too was a priority, with incentives offered to attract girls and women into both education and business. Capacity-building in the State bodies would be accompanied by an employment development plan. All aspects of the Strategy involved the private-sector involvement and comprised indicators to enable proper monitoring of implementation.

4. **Mr. Shohmurod** (Tajikistan) said that the housing code currently being developed would include a definition of social housing; requests for such housing were dealt with in order of submission. The building code concerned private property development, and the housing policy framework took the needs of vulnerable groups into account. The construction of the Roghun hydroelectric power station had not involved any forced transfer of local residents but rather voluntary expropriation, as provided for by legislation, with compensation.

5. Drug trafficking was a particular problem because of the country's long border with Afghanistan. Tajikistan had national plans to combat and prevent trafficking and to assist drug users, with government departments collaborating in their implementation, but the problem went beyond national borders and made international cooperation essential. Tajikistan had improved its efforts to address offences relating to trafficking, and large quantities of drugs had been seized, which had helped to restrict access to drugs in the country. Through collaboration with the agencies of the Russian Federation, the number of Tajik citizens arrested for drugs offences in that country had fallen. The number of

registered drugs users had increased, probably because voluntary registration gave them access to treatment.

6. **Ms. Bobohojieva** (Tajikistan) said that more drug users had been applying for help in recent years, but the situation had gradually stabilized and figures were now falling. In collaboration with other ministries and international agencies, the Ministry of Health had developed programmes, including on HIV, to help them, and the drop-in centres that existed throughout the country had syringe-exchange programmes for injecting drug users. A cooperation agreement with the World Health Organization (WHO) had increased the effectiveness of health and drugs counselling for young people, notably by offering staff specialized training courses with international instructors. The health facilities concerned had received independent certification in line with WHO standards and had served more than 50,000 young people in 2014.

7. **Mr. Shohmurod** (Tajikistan), responding to a question about the effect of drug trafficking on the economy and money laundering, said that a recently adopted Act criminalizing illegal income had been drafted with the help of international experts.

8. **Mr. Mirboboev** (Tajikistan) said that the first national survey of child labour in the country, presented in December 2014, had produced more reliable information, including on the situation in different sectors of the economy. That had enabled the Government to prepare an appropriate response. The country's next periodic report to the Committee on the Rights of the Child would show that just over 20 per cent of children aged between 5 and 15 did indeed work, the figure rising to 45 per cent for 15 to 17-year-olds. However, although a small percentage were working in hazardous conditions, most were working on family farms or in the home, and their school attendance rate was no lower than that of non-working children. Children generally left school only after completing the compulsory ninth class.

9. There was provision for children with disabilities in dedicated schools and children's homes, with adoption — generally within the country — offering an alternative. The provision of quality education for those children was a Government priority, as was their inclusion in society and subsequent employment. There was a national framework for inclusive education and more than 5,000 children with disabilities — over three times the figure for 2009 — were currently attending general schools and preschools. Home schooling was also a possibility and textbooks had been produced for that purpose. All newly constructed school facilities provided for the needs of pupils with disabilities.

10. A Ministry of Education survey showed that 99.9 per cent of children of school age attended school. About 25 per cent left after completing the ninth class, the last year of compulsory schooling, but many of them then went on to two-year vocational training courses. The 270 children under the age of 15 who had dropped out of school in 2014/15 were all of Tajik origin.

11. Measures were being taken to make up the shortfall in the number of teachers, the figure already having been reduced by half to around 200. Two thirds of all teaching staff had higher qualifications and all teachers were entitled to in-service training to improve their qualifications every five years; that interval would shortly be reduced to three years.

12. The new Education Act was encouraging early learning, although as yet only 12 per cent of children attended preschool. The United Nations Children's Fund was helping the authorities to develop early-learning centres and other preschool facilities, particularly in the more remote regions of the country.

13. **Mr. Shohmurod** (Tajikistan) said that, under the new national programme on the eradication of the worst forms of child labour, Tajikistan would improve its system of data collection, which meant that more reliable and up-to-date information would soon be

available. A programme on the development of private schools and preschools had been adopted in 2014.

14. **Mr. Ashurov** (Tajikistan), responding to questions raised at the previous meeting, said that, although legislation did not yet cover all forms of discrimination, many types of both direct and indirect discrimination were criminalized under article 143 of the Criminal Code. One case had been brought to court, and the perpetrator convicted, during the period 2011–2013, and no cases had been brought in 2014. The Covenant and the Committee's recommendations had been translated into Tajik and Russian and distributed to officials and students. Internet access was unrestricted and available at reasonable cost. More than half the population used that service, making it the most used, as well as the cheapest, in the Central Asian region. In recent years, the provisions of the Covenant had been translated into legislation in three areas: education, the right to divorce and pensions. There were also many cases of the courts applying the norms of the Covenant, e.g. in relation to property rights.

15. **Ms. Bobohojieva** (Tajikistan) said that public health care encompassed family planning. Special units had been set up to offer advice on contraceptive methods and abortion procedures, and guidelines had been developed in that regard. All kinds of contraceptive methods were available and most were free of charge. Contraception use had increased over the previous decade, and 72 per cent of the population currently used some form of family planning. The new mandatory medical insurance scheme would be funded by the national insurance tax levied on incomes and complementary medical insurance would also be available. The scheme did not yet have countrywide coverage because of a lack of funding due to poor tax revenues. Under a governmental decision, however, it would be implemented throughout the country from 2015.

16. Many sectors of the population suffered from malnutrition, particularly women and children in vulnerable situations. The State party participated in an international programme, which included input from United Nations agencies, to tackle malnutrition specifically among those groups. Over a quarter of children under 5 years of age were malnourished and around 10 per cent had resulting growth disorders. The collapse of the Soviet Union and the financial crisis of 2008 had had a negative impact on food security and health-care provision, and had generated the displacement of large sectors of the population, increasing their vulnerability to disease. Efforts to improve food security and quality included initiatives such as the incorporation of salt into certain foods in order to increase iodine levels. Other measures included increasing vitamin A levels in babies and toddlers, encouraging mothers to breastfeed and treating cases of anaemia. WHO standards regarding the development of children under 5 were implemented in health clinics. There had been a marked improvement in the health of the targeted sections of the population as a result of all the above-mentioned measures. Additionally, a team had been set up to deal with school meals and special provisions had been introduced to improve nutrition for school-age children.

17. **Mr. Shohmurod** (Tajikistan) said that policymaking in the forthcoming years would focus particularly on the health of children and young persons.

18. **Ms. Tagoeva** (Tajikistan) said that, under the aegis of the Ministry of Internal Affairs and other relevant departments, a programme to prevent domestic violence had been formulated, units had been established across the country to deal with gender-based violence and inspectors specializing in that question had been appointed to the Ministry. The inspectors were competent to bring cases before the courts and to issue protection orders of up to one month. While the number of complaints lodged for domestic violence had fallen overall, in 2014 there had been an increase in the number of complaints made by women. The number of proceedings instituted in 2013 and 2014, however, had decreased.

19. Legislation provided for the possibility of building up pension capital and for pension indexation on an annual basis, taking into account the consumer price index and increases in incomes. If inflation exceeded 6 per cent, steps were taken to ensure sufficient pension provision. A lower pension was provided to workers in the informal economy than to those in the formal sector. Labour legislation contained a list of banned occupations for women with the aim of reflecting women's capabilities and protecting their health. The list included occupations that involved working underground or lifting heavy weights, such as in the mining or construction industries. Labour legislation also provided for the suspension of an enterprise or employer where the health or life of an employee was compromised. Labour laws did not specifically cover the informal economy, in which just under half of the population worked, and efforts were being made to curb the growth of that sector.

20. **Ms. Hasanova** (Tajikistan) said that the contribution of the informal sector was nevertheless taken into account in the calculation of the gross domestic product (GDP). In 2014, that contribution had stood at just over 10 per cent.

21. **The Chairperson** asked for further details on religious education in the State party, particularly in the light of the rise of radicalism and the call to promote moderation and peaceful coexistence. He invited the delegation to refer to the Committee's general comments in future reports with a view to providing in-depth explanations of the implementation of the Covenant.

22. **Mr. Abdel-Moneim** said that the State party's report was too sparse and read like a follow-up report. In the light of the boom in the construction industry which was feeding the economy, he requested data on the State budget allocations for housing, schools and hospitals. The financial benefits of the economic growth resulting from the boom should be directed towards the poorer and more vulnerable sectors of society.

23. **Ms. Shin** said that the provisions excluding women from certain occupations should be reviewed in the context of current efforts in order to challenge gender stereotypes and traditional concepts of gender roles. A post should be filled not according to a person's gender but according to the candidate's qualifications for the job.

24. **Mr. Uprimny Yepes** asked about the lack of protection against discrimination on the grounds of sexual orientation. In addition, given that under current legal provisions it was not possible to prosecute acts of indirect discrimination per se, amendments should be made to ensure that indirect discrimination could be sanctioned.

25. While health-care spending was growing in absolute terms, the proportion of GDP spent in that area was not increasing year on year. What prevented the State party from increasing the percentage allocated for health care? Strengthening health care would trigger improvements in other areas. He asked how the State party would amend the provisions which defined the possession of drugs as an offence, given that they ran counter to other public health-care policies in that area. Lastly, he would like further information on the new draft law to limit access to funding for non-governmental organizations (NGOs).

26. **Ms. Bras Gomes** said that despite provisions to prevent discrimination, certain groups of people were not protected. A comprehensive legal framework was essential in order to take into account discrimination on grounds of sexual orientation, gender identity, and social and economic status. She asked how the maximum threshold of 6 per cent inflation for the indexation of the State pension was determined and what bearing that threshold had on the minimum pension and minimum wage. Was the State party, through the unified pension system, moving towards a contributory system and, if so, how would women be affected?

27. **Mr. Kedzia** (Country Rapporteur) asked how the draft law on the Bar would remedy the lack of legal aid, given that the obligation to provide legal aid was incumbent

on the State. Did the establishment of the Qualification Commission under the purview of the Ministry of Justice compromise the independence of the judiciary? He asked whether social security coverage was adequate, since around half of the population did not work in the formal economy. He asked what action the State party had taken to ensure access to housing, education and other basic services for Tajik migrants, what were the duties of the Tajik consulate in Russia, and what civil status was granted to returning migrants and to the children of women migrants. What plans were there to remedy the accommodation in the same institutions of older persons and children with disabilities? Was domestic violence recognized as an offence in the State party and what mechanisms were in place to receive complaints and provide reparation in that regard? What action was taken to address the issues of early marriage and polygamy?

28. **Mr. Shohmurod** (Tajikistan) said that the draft law concerning limitations on access to funding for NGOs was under examination and was not currently before parliament. It was based on recommendations from the Organization for Economic Cooperation and Development to curb money-laundering and corruption, and to monitor resources donated to NGOs. Approximately a quarter of NGOs in the country received foreign assistance, amounting to a third of the State budget. The draft law, through the requirement for NGOs to declare resources received, was intended to prevent duplication of the provision of resources.

29. The draft law on the Bar aimed to bring provisions on access to legal aid into line with international standards. The Qualification Commission oversaw the examination procedure for newly trained lawyers, was fully independent, and consisted of five practising lawyers and representatives of Government ministries, NGOs and academic institutions. The draft law did not address budgetary requirements for the provision of free legal aid and there were no State attorneys or public defenders in Tajikistan. The Government was therefore studying the issue with support from foreign partners such as the United Nations Development Programme in order to consider alternatives and reach a solution.

30. **Ms. Bobohojieva** (Tajikistan), replying to a question about social insurance, said that there were a number of social benefits that covered, inter alia, temporary incapacity to work, maternity leave and unemployment; those benefits were regulated by law. Workers were entitled to special benefits if their incapacity for work had been caused at or on their way to the workplace or on the day they had been dismissed. Women workers were entitled to maternity benefits, which were equivalent to their daily wage multiplied by 70 or 80 days. Childcare was subsidized for the first 18 months of the child's life, and benefits were increased with the birth of additional children.

31. **Mr. Shohmurod** (Tajikistan), referring to a question raised by Ms. Shin, said that the exclusion of women from certain occupations was being reviewed by the Government and might be abolished. Some of the stereotypes inherited from the Soviet era were perhaps perpetuated by women who did not wish to perform certain tasks, but women should nevertheless have the right to freely choose their occupation.

32. **Ms. Hasanova** (Tajikistan) said that there had been a marked increase in the number of persons, including pensioners, who were able to purchase the minimum consumer basket. The minimum pension was related to the minimum wage, and both had been increased in recent years pursuant to presidential decree. The minimum wage would be raised by 60 or 70 per cent in September 2015, and similar increases in the minimum pension were envisaged.

33. Referring to concerns that had been raised by Mr. Uprimny Yepes, she said that the budget for health care was estimated at 2 per cent of GDP or 7 per cent of overall State spending, while social insurance accounted for 20 per cent of State spending.

34. **Mr. Mirboboev** (Tajikistan), responding to questions posed by the Chairperson, said that Tajikistan attached great importance to religious education. The Islamic Institute of Tajikistan had some 4,000 students, 25 per cent of whom were female. Islamic education standards, curricula and programmes were established and overseen by the Government, and the Institute received some of its funding from the central budget. At the secondary school, all students received a secular education while being instructed in the precepts of Islam, and most graduates went on to pursue higher Islamic education at the Institute. A number of students who had gone abroad to study Islam had returned to Tajikistan, where they were given the opportunity to continue their studies at the Institute.

35. **Mr. Ashurov** (Tajikistan) said that his Government had been concerned that young persons studying Islam abroad might fall prey to extremist groups and become jihadists or suicide bombers. As a result, action had been taken to ensure that students could pursue their religious education, regardless of level, in Tajikistan. In addition to the Islamic Institute of Tajikistan, there was a non-governmental Islamic association with a centre that provided, inter alia, instruction for school-age children and further training for teachers. Such programmes sought to improve the quality of Islamic education in Tajikistan and to curb negative extremist influences that might undermine the stability of the country.

36. **Mr. Shohmurod** (Tajikistan), replying to questions about early marriage and polygamy, said that the State party had raised the legal age of marriage from 16 to 18. While early marriages had been criminalized, girls were allowed to marry at the age of 17 if a judge issued an authorization to that effect. Polygamy was prohibited under the Constitution and had been criminalized, but it was not unheard of as the vast majority of the population was Muslim. While 103 cases of polygamy had been identified in 2014, the State party favoured preventive measures and awareness-raising campaigns as opposed to the prosecution of individuals.

37. Turning to the issue of labour migrants, he said that the Government had adopted various measures to prevent the return of such migrants from having a negative impact on the national economy.

38. **Ms. Tagoeva** (Tajikistan) said that labour migration was an issue of great concern. Her Government had set up a pre-migration centre that provided free guidance to migrant workers who were planning to go abroad, and a branch of the Ministry of Labour worked closely with the Tajik Embassy in the Russian Federation to uphold the rights of Tajik migrant workers there. The number of Tajiks who were prohibited from migrating to the Russian Federation had increased, and 450,000 migrant workers had returned to Tajikistan during the winter of 2014. The Government had established an employment programme to provide such workers with training and certificates upon successful completion of their training. It also advertised vacant posts, held a special labour fair for returning migrants and worked with employers to ensure that returning migrants found employment. In addition, the number of loans and grants issued to women, including returning migrant workers, had increased, which allowed them to set up their own businesses and employ others. The Government had also begun implementing a programme that encouraged the children of migrant workers to attend school and provided the families with targeted social assistance.

39. **Mr. Shohmurod** (Tajikistan), referring to concerns about discrimination on grounds of sexual orientation, said that national legislation did not establish a comprehensive list of the grounds for discrimination, but cases of alleged discrimination could nevertheless be taken to court. The courts had not examined any cases of discrimination on grounds of sexual orientation to date.

40. **Mr. Ashurov** (Tajikistan), addressing concerns about the length of the State party report, said that the report had initially been submitted in 2011 and deemed too long. As a

result, the State party had redrafted it in order to bring it into line with the Committee's requirements.

41. **Mr. Mirboboev** (Tajikistan) said the State ensured that all children enjoyed equal access to education and that the number of girls and women enrolled in school and in postgraduate studies had increased. Middle-school classes were now offered at primary schools in certain rural areas to ensure that children did not stop attending school due to the absence of a middle school in their community. Bilingual schools had been established in areas in which national minorities were concentrated. As to the impact of the economic crisis on education, State spending on education had, in fact, increased.

42. **Mr. Ashurov** (Tajikistan), in response to a question about domestic violence, said that while the law did not contain a provision specifically relating to domestic violence, a number of provisions on offences such as assault could be invoked in cases of such violence. The State party did not have any data on sentencing in domestic violence cases.

43. **Mr. Shohmurod** (Tajikistan), referring to a question about Internet access for marginalized groups, said that the Government did not provide free or subsidized Internet access and that all of the country's Internet providers were private.

44. **The Chairperson** said he regretted that the delegation did not have more time to answer the Committee's questions and suggested that Mr. Shohmurod proceed to make his closing statement.

45. **Mr. Shohmurod** (Tajikistan) said that he would like to thank the members of the Committee and, in particular, Mr. Kedzia, for their questions and comments. While the State party had not been able to not respond to all their questions due to time constraints, it would make every effort to address the Committee's concerns and to implement its recommendations.

46. **Mr. Kedzia** said that he wished to thank the State party for its frank and informative responses to the Committee's questions. The dialogue had been very constructive and had given the Committee a better understanding of the scale of the challenges and constraints facing Tajikistan, as well as the laws and measures that had been implemented. As they had not been able to explore some important issues in depth, he hoped that the State party would stay in contact with the Committee before the consideration of its next report. He welcomed the presence of observers from civil society and thanked the NGOs for their reports and advocacy of economic, social and cultural rights.

The meeting rose at 12.55 p.m.

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Committee on Economic, Social and Cultural Rights

Fifty-fourth session

Summary record (partial)* of the sixth meeting

Held at the Palais Wilson, Geneva, on Wednesday, 25 February 2015, at 3 p.m.

Chairperson: Mr. Sadi

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Initial report of the Gambia

* No summary record was prepared for the rest of the meeting.

This record is subject to correction.

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The discussion covered in the summary record began at 3 p.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (*continued*)

Initial report of the Gambia (E/C.12/GMB/1; E/C.12/GMB/Q/1; HRI/CORE/GMB/2012)

1. **The Chairperson** said that he was unsure whether, in view of the Gambian Government's unexpected failure to send a delegation to introduce the State party's report and engage in a constructive dialogue, the Committee should send the Gambian authorities a letter of complaint. He requested guidance on the matter from the country rapporteur and other Committee members.

2. **Mr. Dasgupta** (Country Rapporteur) said that the Gambia had been a party to the Covenant since 1979 and that its initial report, due in 1990, had been received only in May 2012. In 1994, the Committee had adopted concluding observations in the absence of a report. Moreover, although the Gambian authorities had expressed gratitude for the concluding observations in the report under consideration, thereby indicating a willingness to cooperate with the Committee, no replies had been received to the list of issues. The Committee should express its dissatisfaction with that situation but, it view of rule 62 of the its rules of procedure, which suggested that a State party was entitled, but not obliged, to send a delegation to take part in proceedings, it was not entirely clear whether a letter of complaint as such was justified. The Committee was, however, required to proceed with consideration of the State party's report and, in order to draw up its concluding observations, it would have to rely on sources other than the Gambian delegation or the replies to the list of issues.

3. The report had highlighted a number of positive developments in the State party which related largely to the adoption of legislative measures, accession to international treaties and, in some cases, policy development. The main question, however, was whether the country actually implemented those policies and whether it fulfilled the obligations it had undertaken. The other main areas of concern to the Committee were: corruption, which prevented the State party from making progress towards the full realization of the rights recognized in the Covenant to the maximum of its available resources; the equal right of men and women to the enjoyment of the rights set forth in the Covenant, an area in which actual achievements were unclear, despite a modicum of progress on the legislative front; trade union rights; the right to social security; the protection accorded to the family, in particular to children, who were often forced into early marriages; the right to an adequate standard of living; the right to the highest attainable standard of health, particularly since clarification was needed on what the State party had done to reduce its remarkably high rates of child and maternal mortality and to criminalize the widespread practice of female genital mutilation; its alarmingly high drop-out rates; and, lastly, the right of everyone, including persons from the most disadvantaged groups, to take part in cultural life.

4. **The Chairperson** said that the Committee had invoked rule 62 when, in the absence of a delegation, it had considered the combined initial and second and third periodic reports of Chad. In the case of Gambia, however, the Committee had been led to believe that a delegation from the State party would appear; and although it was true that there was no rule specifically obliging representatives of the States parties to appear before the Committee, it was customary for them to do so. The Committee might wish to express its dissatisfaction with the delegation's failure to appear in the first paragraph of its concluding observations, as had been done with Chad.

5. **Mr. Schrijver** said that he was aware that visitors to the Gambia were commonly shocked by the tremendous inequality in the country, where nearly half the population lived in poverty. The Gambian State's apparent failure to allocate as many resources as possible to housing, health care or social services was extremely alarming, as was the lack of respect for civil and political rights. As the Human Rights Committee had also found it necessary to consider the situation of the Gambia in the absence of a report, questions about the Gambian authorities' respect for human rights in general were not unwarranted.

6. **Mr. Uprimny Yepes** said that any expression of the Committee's dissatisfaction with the decision of the Gambia not to appear should emphasize that the constructive dialogue was undertaken in large part for the benefit of the State party. It provided States parties with an opportunity to correct any mistakes and clear up any misunderstandings. Figures from the common core document, for instance, appeared to show that women in the Gambia were far more likely to be poor than men. It was to be regretted that no one from the State party could comment on those figures, which, if accurate, indicated that the Gambia had fallen well short of meeting its obligations under the Covenant. He wondered what the place of the Covenant in the domestic legal order was, whether the Ombudsman's Office, mentioned in the State party's report, was a genuinely independent human rights institution and how the Gambian authorities could even attempt to justify the country's criminalization of homosexuality.

7. **Mr. De Schutter** said that a State party's failure to appear put the State party itself at a disadvantage, as the Committee could not presume that a lack of information meant that no problems existed. Nor could assurances be secured that recommended actions would be taken. The Committee should therefore refer to those factors in its concluding observations. Moving on to issues of substance, he said that, as has been noted by the Committee on the Rights of the Child, the State party had failed to invest adequately in social welfare and health systems. Furthermore, discrimination against girls and women in the Gambia was still a major concern. There was no justification, for instance, for the discriminatory provisions that infringed on their inheritance rights. Information provided in the State party's report also suggested that the Gambia continued to view disability as a medical problem of the individual, rather than as a societal issue. The Committee should therefore make it clear to the State party that its approach to disability was outdated and that every effort should be made to include children with disabilities in mainstream schools.

8. **The Chairperson** said that the Committee could draw on the language used in its concluding observations on the combined initial and second and third periodic reports of Chad, which had clearly conveyed the message that dialogue was a key component of the consideration of reports and that the State party's failure to take advantage of the opportunity to hold in-depth discussions was deeply regrettable.

9. **Mr. Dasgupta** said that the Gambian delegation's failure to appear was more egregious than that of the Chadian delegation because it had not provided any response concerning its intentions. The reproach to be expressed in the concluding observations should therefore be couched in more severe terms.

10. **The Chairperson** suggested that Mr. Dasgupta should propose the revisions to be made to the wording of the expression of dissatisfaction.

11. **Ms. Bras Gomes** said it was possible that the rules of procedure reflected the established practice in the early days of the Committee's work, when, if she was not mistaken, the consideration of reports had been a written exercise not involving appearances by States parties. Since then, the importance of the constructive dialogue had increased considerably. Regarding the issues highlighted in the State party's report, she would appreciate further information on the reasons for the Government's evident acceptance of polygamy. The authorities could perhaps take a more active role in

combating the practice. She also wished to know what exactly was meant by the terms "the public interest" in the article of the country's Constitution that stated that every person in the Gambia, whatever his or her race, colour, gender, language, religion, political or other opinion, national or social origin, property, birth or other status, was entitled to fundamental human rights and freedoms, but subject to respect for the rights and freedoms of others and for the public interest. Comment on the State party's ranking in the Ibrahim Index of African Governance would be welcome, as would updated figures concerning public spending on social welfare.

12. **Mr. Kedzia** said that the rules of procedure had been adopted in 1989 and that practices had changed since that time. Currently, the established practice was for States parties to appear. It would therefore be wise to refrain from sending any signal to the effect that the appearance of States parties was optional. It was a great pity that the Committee could not engage in constructive dialogue with the delegation of Gambia on the sociocultural realities of the country, in particular as they related to sharia law. He would be particularly interested to learn what impact the existence of customary law and sharia law had on the implementation of the Covenant. He also wished to know what progress, if any, had been made towards the establishment of the Ombudsman's Office, as provided for in the country's Constitution, and the National Human Rights Commission, regarding which a bill had apparently been drafted but not yet submitted to the legislature.

13. **The Chairperson** suggested that the Committee would do well to consider amending rule 62 of the rules of procedure to reflect current practice.

14. **Mr. Chen** said that it was important for the State party to understand that its report on the progress that it had made in fulfilling its obligations under the Covenant was supposed to be considered by the Committee within the framework of a constructive dialogue. The Committee should make its dissatisfaction known in either a letter to the State party or in its concluding observations on the State party's report. The Committee should also remind the State party that it was still required to submit its written replies to the list of issues. There could be many reasons why the delegation had failed to attend the meeting, including a lack of financial or human resources. If that were the case, the United Nations could provide the State party with technical and possibly financial assistance. Whatever the reason, it was the Committee's responsibility to foster cooperation with States parties to ensure the effective implementation of the Covenant rather than simply point out their shortcomings in that endeavour. The Gambia had sent a high-level delegation to appear before the Human Rights Council for its universal periodic review in October 2014 and had undertaken to reply to the questions posed on that occasion at the Council's next session. In view of its willingness to cooperate with the Council, it was all the more important for the Committee to ascertain the reason for the delegation's failure to attend the session.

15. **Mr. Abdel-Moneim** said that a large delegation was not always a guarantee of a constructive and fruitful dialogue. Moreover, it was impossible to determine whether a dialogue had been constructive until the State Party had submitted its next periodic report. Sending delegations to report to the Human Rights Council and to each of the treaty bodies was extremely costly and might not be financially viable for some developing countries. It would be useful for the Committee to take a few hours after meeting with a delegation to take stock of the dialogue itself. If there was any uncertainty as to whether a State party was going to send a delegation to the session, consideration of its report should be rescheduled to allow the Committee to review the report of another State party. Alternatively, representatives of civil society organizations and international NGOs could help compensate for the absence of a delegation by providing supplementary information. Lastly, it should be noted that polygamy was not specific to sharia law, as it existence predated

Islam and was a feature of other cultures. In part, the practice of polygamy could be attributed to social and economic underdevelopment.

16. **Mr. Abashidze** said that the absence of the delegation of the Gambia had provided the Committee with an opportunity to discuss matters that it did not normally have time to discuss. The size of a delegation did not always equate with the quality of a dialogue. However, when a State party had undertaken to present its report and to engage in a dialogue with the Committee and then failed to send a delegation, the Committee should react accordingly. It might be possible to hold a constructive dialogue in another form, for instance with the use of videoconferencing. The Committee should consider revising its general comment No. 1 on reporting by States parties to include the procedure to be followed when a delegation could not or failed to attend a meeting. He wondered whether it would be possible to rearrange the programme of work for the Committee's future sessions to allow more time for drafting general comments and dealing with other pending matters.

17. **Mr. Uprimny Yepes** said that, while the State party's failure to send a delegation to attend the meeting was certainly discourteous, it remained unclear whether it was actually under any legal obligation to do so even though it had, over time, become a de facto obligation. Before it drafted its concluding observations on the Gambia, the Committee needed to determine whether articles 16 and 17 of the Covenant, which required States parties to submit a report to the Committee, also required representatives of the State party to be present at the meeting at which the report would be considered. Two or three Committee members could undertake a legal study of those articles to that end. However the Committee chose to respond to the situation, it had a responsibility to encourage States parties to participate in a constructive dialogue. He agreed about the need to explore other methods of pursuing a dialogue with States parties when they could not or would not send a delegation to meet with the Committee.

18. **Ms. Shin** said that the meetings devoted to the consideration of the report of the Gambia had been scheduled in consultation with the State party itself. In accordance with paragraph 3 of rule 62, once a State party had agreed to the scheduling of its report for consideration by the Committee, the Committee would proceed with the consideration of that report at the time scheduled, even in the absence of a representative of the State party. She did not agree that polygamy was necessarily attributable to social and economic underdevelopment, given the situation in that respect in developed countries such as Saudi Arabia.

19. **Mr. Ribeiro Leão** said that, according to Fact Sheet No. 16 (Rev.1) on the Committee on Economic, Social and Cultural Rights, representatives of reporting States were strongly encouraged, but were not under any legal obligation, to attend the meetings at which their report was considered. He agreed that there was a need to amend rule 62.

20. **The Chairperson** said that the meetings devoted to the report of the Gambia had been scheduled on the premise that representatives of the State party would attend in person to discuss their report with the Committee. To pursue a dialogue with the State party in any other form would undermine the Committee's work. The Committee had never countenanced the possibility of attendance by a delegation being optional. He understood that there was a consensus among the members of the Committee that, in principle, States parties must send a delegation to meet with the Committee as a matter of course. The Committee could, of course, make other arrangements in exceptional cases. He was in favour of amending rule 62 if necessary but any amendments should not impair the Committee's capacity to consider State party reports.

21. **Mr. Pillay** said that it was reasonable for there to be some discussion on the reasons why the State party had failed to send a delegation and wished to remind the members that the Committee had already agreed to use the text of the Committee's concluding

observations on Chad, subject to modification by Mr. Dasgupta, as a model for the relevant portion of its concluding observations on the Gambia.

22. **Mr. De Schutter** said that, in the event that a State party did not submit a report, the Committee should proceed to consider its fulfilment of its obligations under the Covenant on the basis of the information available to it. It would be difficult to justify any other course of action in cases where a State party failed to send a delegation to present its report, especially as it was not clear whether representatives of the State party were under any obligation to attend the meeting in the first place. The Committee could proceed to amend rule 62 but the amended rule could not be applied retroactively to the Gambia. Although the Committee could not say that the State party had violated the provision of the Covenant by failing to send a delegation, in its concluding observations on the Gambia, based on those for Chad, it should remind the State party of the need to cooperate with it by attending meetings and by providing written replies when requested to do so.

23. **The Chairperson** said that there was no question of the Committee stating in its concluding observations on the Gambia that the State party had violated the provisions of the Covenant by failing to send a delegation. It was his understanding that the Committee intended to use the same wording as had been used in its concluding observations on Chad, with some modifications.

24. **Mr. Dasgupta** said that there appeared to be a consensus on the need to amend rule 62 and on dealing with the State party's failure to send a delegation in much the same tone as had been used in the case of Chad.

The meeting was suspended at 4.50 p.m. and resumed at 4.55 p.m.

25. **Mr. Martynov** said that the unemployment rate in the Gambia was alarmingly high, particularly among young people. He would be interested to know what the rate had been in 2014 and whether the State party had adopted a new programme to combat unemployment. The information contained in paragraph 65 of the State party's report was too cursory to provide a satisfactory overview of the results yielded by the previous programme, and the scant figures provided were distinctly unimpressive. It was safe to assume that the State party had difficulty in collecting data on employment and on the realization of labour rights. The Committee should encourage it to step up its efforts to collect disaggregated statistics and to provide them to the Committee in the future. It was unlikely that the rights enshrined in article 7 of the Covenant were fully protected if 96 per cent of the Gambian workforce was employed in the informal sector. The fact that the joint industrial councils, which were supposed to be responsible for, inter alia, setting the country's minimum wage, had never actually been constituted was a major cause for concern. There was no universal social security system in the Gambia, and, in fact, there appeared to be no social security programmes for workers in the informal sector. The Committee should request the State party to provide additional information on that subject. The Committee should consider requesting the State party to submit its next periodic report in two or three years' time instead of in four or five years' time.

26. **Mr. Ribeiro Leão** said that the comments made by Mr. Martynov should be reflected in the Committee's concluding observations on the initial report of the Gambia.

27. **Ms. Bras Gomes** said that she would like more information on the economic recovery associated with the strong performance in the tourism and agriculture sectors. She wished to know what impact that recovery had had on employment figures. The high level of youth unemployment was a source of concern, particularly given the significant size of the population aged between 15 and 24. Clarification was needed on the terms "constructive dismissal" and "unfair dismissal" contained in paragraphs 68 and 69 of the initial report. Further information was also required on the role of the Social Security and Housing Finance Corporation and on the Women's Act of 2010, the benefits it covered and

its provisions on eligibility. If the minimum pension covered no more than the cost of a bag of rice, it was clearly insufficient and she therefore wished to know when it would be reviewed. More information was needed on the informal contributory arrangement known as "osusu", which was reportedly popular among workers and market women. She had noticed that reference had been made in the report to specific provisions protecting the rights of elderly women but not to anything similar for elderly men; the State party should be reminded that the Covenant provided for equal rights for men and women.

28. **Mr. Schrijver** noted that the State party had not provided any relevant statistics or disaggregated data on employment and unemployment. Furthermore, there was no information on government measures to address the high rate of youth unemployment. The existence of a large informal sector led him to suspect that child labour was a problem in the Gambia, despite legislation that set the minimum working age at 16. He wished to know what impact child labour had on education and school drop-out rates. While it was clear from the State party's report that trade union legislation met international standards, no information had been provided on the existence of trade unions; nor did the report state whether they could engage in collective bargaining or whether workers enjoyed the right to strike.

29. **Mr. Kedzia** said that attention should be paid to the possibility of helping to secure technical assistance for the State party as provided for in article 22 of the Covenant. He would like clarification on the data provided on employment, particularly with regard to the percentages of the working population employed in the informal sector or working on a self-employed basis. Since civil servants were unable to join trade unions and the informal sector accounted for such large part of the labour market, he wondered who benefited from trade union legislation. Progress had nonetheless been made, despite challenges, including through the Gambia Priority Employment Programme, which had been launched in partnership with the United Nations Development Programme and the International Labour Organization.

30. **Mr. Ribeiro Leão** said that he wished to know whether a new poverty reduction programme would be introduced to replace the Programme for Accelerated Growth and Employment, which was to end in 2015.

31. **Mr. Pillay** said that he was concerned at the high rate of poverty and would like clarification on the figures on persons living in poverty and information on whether poverty rates had changed in recent years. He wished to know whether the Gambia Priority Employment Programme had been successful in increasing employment and reducing poverty. No reference was made in the report to housing, and information was therefore needed on access to adequate and affordable housing, social housing, urban slums, forced evictions and relevant legislation. He would appreciate an explanation of the assertion in the report that there were low levels of homelessness in the Gambia and wished to receive disaggregated data on access to basic services, including sanitation and safe drinking water.

32. **Ms. Ravenberg** said that the State party should ensure that the entire population had access to health facilities. Child and maternal mortality was too high and there were indications that infant mortality was rising after years of decline. She wished to know what steps were being taken to reduce stillbirth rates and infant mortality and to support children's health. Up-to-date statistics would be appreciated. Information before the Committee indicated that awareness of methods of HIV prevention was relatively low and that there was no specific budget for efforts to tackle HIV/AIDS. More details should be provided on government policy on HIV/AIDS. While welcoming the domestic violence bill of 2011, she was concerned at weaknesses in the legislation, at the general lack of awareness about domestic violence and at shortcomings in the enforcement of legislation in that connection.

33. **Mr. De Schutter** said that the main development strategy, the Programme for Accelerated Growth, had failed due to the absence of a rights-based approach. He therefore wished to know how the State party would rectify its approach when developing future plans for spurring growth and employment. Data on food security and hunger were patchy and government efforts to improve food production by, for example, purchasing tractors did not have an impact on the poorest farmers. He would appreciate information as to whether the means chosen by the Government to boost food production were redistributive and were providing support for small farmers.

34. **Mr. Kedzia** noted that the domestic violence bill did not cover female genital mutilation, which was not punishable by law. Although problematic because it was so deeply ingrained as a traditional practice in the Gambia, it should nonetheless be made punishable by law. He also wished to know what measures were being taken by the State party to address the reportedly high levels of child labour.

35. **Mr. Uprimny Yepes** said that, in addition to taking a rights-based approach, future development strategies should also be gender sensitive, particularly in view of the notable gender gap in poverty rates. The lack of data on the situation in the Gambia was a problem, since statistical data were crucial for effective policymaking.

36. **Mr. Pillay** said that he wished to highlight the problem of child malnutrition, which had increased, particularly among under-fives. There was also a growing problem with children in street situations, as noted by the Committee on the Rights of the Child in 2015.

37. **Mr. Kerdoun** said that he would like to understand how an increased education budget and newly built schools would be maintained. Despite the large budget for education, problems persisted, including high primary school drop-out rates for girls and discrepancies in educational provision between rural and urban areas, and he wished to know how those problems would be tackled.

38. **Ms. Ravenberg** said that a report by the United States Department of State had noted that families had to pay tuition fees and other costs, including for books, uniforms and lunches, at primary school. High levels of illiteracy were doubtlessly fuelled by high drop-out rates, especially among girls, and the fact that 29 per cent of children had never attended school. She would appreciate information on the measures adopted to address those problems and ensure that primary education was free and available to all, including in rural areas. She wished to know how the Government guaranteed the right to education of refugee children, given that only adult refugees received an identity card which implied that children could experience difficulties in accessing education and health services.

39. **Ms. Shin** said that the State party had not provided enough information to permit the Committee to assess the extent of trafficking in persons, despite the fact that the issue had been raised during the universal periodic review of the Gambia by the Human Rights Council and by the Committee on the Elimination of Discrimination against Women in 2014. Details would be appreciated on the provisions of the Trafficking in Persons Act of 2007 and on how the National Agency against Trafficking went about ensuring the implementation of that law.

40. **Mr. Abashidze** said that he would welcome information on State expenditure on cultural activities.

41. **Mr. Dasgupta** said that many of the comments made by Committee members pointed to an absence of data and a resultant lack of clarity about the implementation of the Covenant in the State party. The Committee should consider taking an innovative approach to the formulation of recommendations for inclusion in its concluding observations on the initial report of the Gambia. He suggested that Committee members should gather data

from other sources and provide draft paragraphs dealing with their areas of expertise for collation by the secretariat.

The discussion covered in the summary record ended at 5.50 p.m.